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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1996

Addendum

LUXEMBOURG

[26 July 1996]

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Drafting Committee*

Persons contributing to the report*

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* These documents may be consulted in the archives of the High Commissioner/Centre for Human Rights

I. PROMOTION OF THE RIGHTS OF THE CHILD IN THE GRAND DUCHY OF LUXEMBOURG

A. Legal recognition of the child as a person holding and exercising rights

1. This recognition has been the fruit of a long evolution. In Roman Law, the paterfamilias literally had the right of life and death over his children. The father had the same role as the City: it was his duty to provide for and increase the familia. It was within the family that future citizens were moulded. The child, an item of private property, was seen as a savage who had to be turned into a civilized being. The father had the right of life and death over his offspring. Thus, when the child was born the father decided whether to let it live or to expose it.

2. According to Philippe Ariès, the concept of childhood was "invented" in the 17th and 18th centuries. In the latter - the Age of Enlightenment - the child was seen as the creator of a new society. The last third of that century brought about a real change in values and a profound alteration in the image of the child, partly inspired by Jean-Jacques Rousseau's pedagogical work Emile (1762). According to Rousseau, children are naturally good; they are warped by society, and consequently, methods of education need to be changed.

3. Socially, Europe went through a period of industrialization and urbanization and the first demographic revolution, with a sharp fall in mortality brought about by the drop in infant mortality (rates fell by one third between 1780 and 1820). A new model of the family emerged: The middle classes, unlike the aristocracy, refused to accept the old, traditional and utilitarian family model. A society was born in which the father, mother and children began to demonstrate their love for one another. However, a heavy burden was placed on children; in the family, policies to promote higher birthrates were pursued in order to provide the nation with strong, healthy children.

4. In 1804, the introduction of the Napoleonic Code civil brought with it a new system of family law. One of the drafters of the Code defined the concept of childhood as follows: "We are born weak, beset by diseases and needs, and during this first age of childhood, Nature wishes the father and mother to have absolute power over their children, a power entirely given over to ensuring their defence and protection" (Fenet, vol. V, p. 511). The Code introduced the concept of the legal incapacity of minors, whose paramount need was to be protected.

5. The provisions of the Code civil have long been applied in the Grand Duchy of Luxembourg without significant change.

6. The first interventions by the State targeting children concerned abandoned children, public charities, school attendance, health, child labour and natal care.

7. The 1881 Education Act obliged the State to confer the right to education on every child. The Act did not have the desired effect, as many children stayed at home to help their parents, most of whom worked in the primary sector.

8. In 1912 legislation introduced compulsory schooling in Luxembourg, requiring nine years' schooling from the start of primary education.

9. Child labour was widespread in various sectors of the economy, and it was not until 1969 (Protection of Children and Young Workers Act of 28 October 1969, consolidated text of 10 September 1981) that the legislature prohibited the employment of children under the age of 15 in work of any kind, also prohibiting some work hazardous to the health of young people and some occupations inherently likely to put young people's morals at risk (young people being those under the age of 18).

10. In the area of health, mention should be made of the legislation concerning the nursing of infants (Act of 1906 and Decree of 1907), which is still in force, the payment of family allowances to promote ante- and post-natal examinations (amended Act of 1977), the 1984 Act introducing systematic medical examinations for children between two and four years of age, and the legislation concerning medical care in schools.

11. Once they have attained the age of discretion, minors must give their consent to any act affecting their persons. They must consent to major medical interventions performed on them (art. 52 of the Code of Medical Ethics).

12. By amending the legislation on the family, by placing both parents on an equal footing in matters concerning their children, and by generally according them only rights commensurate with their function, the legislature started a trend that shifted the emphasis away from the family unit towards its individual members. Similarly, equality of all children under the law became a reality in the country's civil legislation. The Family Allowances Act of 19 June 1985 recognized children's right to family allowances.

B. Judicial protection of children and young people (historical overview, measures and problems)

1. Children and the law in the 19th century

13. In Luxembourg as elsewhere, the concepts of criminal legislation, whose principal aim was to bring about a moral improvement in children brought before the courts, underwent a gradual transformation. The various stages in that evolution reflect the scientific preoccupations of the different periods in which they emerged. From time immemorial, the ultimate goal of any judicial intervention was the good of the community.

14. The Criminal Code of 1810 set out to achieve that goal by means of purely punitive measures. Whether in the case of a sanction applied for an act detrimental to family life by the parental authority, or of one applied by a court for a socially reprehensible act, its essential purpose remained the same: to make the perpetrator atone for an offence committed; to inflict on the offender, whoever he might be, a treatment that humiliated him and that he perceived as a disagreeable; and, through intimidation, to deter him from committing further offences and compel him to live a normal life in society. Minors and adults alike were detained and subjected to the same regime of rigorous imprisonment. Sanctions, atonement and intimidation never fulfilled their primary aim of serving as an educational measure.

15. The 19th-century humanitarian school brought a first reaction to the exclusively intimidatory measures hitherto applied by the earlier repressive procedures. It was the resulting Criminal Code of 1879 that first established a

distinction between adults and minors under 16 years of age. In doing so it gave practical form to a fundamental truth that went on to influence the whole question of child offenders.

16. It was left to the court to decide whether minors under 16 years of age had acted "with or without discretion". In the former case, sentence was passed. A minor under 16 years of age who was acquitted having been found to have acted without discretion (art. 72 of our Criminal Code) was placed at the disposal of the Government until, at the latest, the age of majority (21 until 1975). In the latter case, the law provided that the child could either be detained in an "educational establishment", placed in a special reform or charity institution, or apprenticed.

17. Despite its imperfections, the criminal reform of 1879 was a considerable success. Nonetheless, child offenders were brought before the same court as adults, although a special session of the correctional court was convened periodically to hear such cases. Adults and children were subject to the same procedure and had, where sentenced, to undergo the same correctional sanctions until the entry into force of the Protection of Children Act of 2 August 1939.

18. The degree of discretion that the judge was called upon to assess could only be the child's legal discretion, and more often than not children brought before the courts felt themselves to be unfairly treated. Children who had been sentenced were freed more often than those deemed to have acted without discretion. In either case a sentence, even a light one, meant that a stigma was placed on the child, and led to new difficulties in any attempt to rehabilitate him, especially in a country as small as Luxembourg.

19. The reform of 1879 showed a profound lack of understanding of the social problem of juvenile delinquency. Consequently, it quite failed to achieve the results expected of it and the goals it had set itself. Crime among children continued to increase, as did recidivism.

2. Developments in protection of children in the 20th century

20. Auguste Ulveling, in his capacity as Chairman of the Administrative Committee on Prisons, was the first person in Luxembourg to take up the sensitive issue of children, publishing, in 1890, a booklet inspired by the French Act of 24 July 1889 and entitled "Protection of Children. Support for Detained and Released Children". That publication was followed in 1905 by a second, entitled "Morally Abandoned Children", containing a draft law on the question together with a well documented explanatory memorandum. The term "morally abandoned children" referred, not to children who had been physically abandoned - who received public assistance by virtue of articles 27 and 29 of the Act of 28 May 1897 - but to children the cause of whose abandonment was to be found in the faults or vices of their parents, or was due to circumstances - such as infirmity or extreme poverty - which rendered the parents incapable of performing their duties of supervision and education vis-à-vis their children.

21. Unfortunately, it was some time before Mr Ulveling's call met with the response it deserved. It was not until 5 December 1911 that the Minister of State Paul Eyschen submitted to the Council of State a draft law on the protection of morally abandoned children, which retained only the title of Ulveling's original proposal. A special commission was set up, and published its

report at the end of 1914, at the start of the hostilities of the First World War.

22. It was not until 1926 that, thanks to parliamentary intervention, the problem was taken up again and the Director-General of Justice tabled a new draft law on morally abandoned children, which was referred back to the Council of State with an opinion on 30 July 1926. Between the end of 1926 to 15 October 1930 the Social Insurance Committee devoted 15 meetings to the draft law. According to its final report, the Committee did not intend to embark on new discussions on the principle of the procedure, but was endeavouring to find ways and means of securing implementation of the new law.

23. On 26 June 1929 the then Director-General of Justice submitted a second draft law to the Council of State, concerning the institution of the juvenile judge and measures to be taken regarding minors brought to court and child offenders. This draft law, as the Director-General of Justice stated in his dispatch, "responds to our aspirations to pursue reform in Luxembourg, moving away from punishment and towards the protection of abandoned young people and rehabilitation of young offenders."

24. By then, special courts for children, first introduced in the United States of America, were already in place in most European States. It was everywhere recognized that young offenders, many of whom have had no notion of the requirements of society instilled in them, must not be treated in the same way as adult criminals, who are capable of understanding; that the former are more unfortunate than guilty; and that as it is still possible to rehabilitate them, they must be corrected rather than punished. From this it was concluded that criminal courts, whose task it is to impose penalties on individuals who deliberately come into conflict with the law, are not a suitable place in which to deal with young offenders in a manner appropriate to their moral state, and that they must therefore be tried by experts in accordance with special procedures.

25. In its opinion of 14 March 1930 the Council of State recognized the validity of these considerations. It raised no objection regarding the principle of introducing that reform into our legislation, but questioned the desirability of enacting legislation in view of the statistically insignificant number of children brought before the correctional court. The Council finally concurred with the Government's proposal, accepting the possibility that the number of minors brought before the new court would increase if, as was proposed, the legislature fixed the age of criminal majority at 18 years instead of 16 years, as envisaged in the governmental draft.

26. Faced with the two draft laws tabled successively by the Government, one in 1926 on "forfeiture of parental authority", the other in 1929 referring to "measures to be taken regarding minors brought to court" and concerning child offenders, the Council of State and the Central Section considered that those two categories of children are not in fact so very different and together constitute a single group - a country's unfortunate children. They merely represent two stages in an almost inevitable process, whereby moral and physical abandonment lead to the development of unfortunate beings who, reduced to a life without resources, supervision or moral education, go on to become malefactors.

27. From this the two senior bodies drew an important conclusion: "If prevention is to be the fundamental basis for our activity, our first task must be to seek out morally abandoned children, so that once they have been identified they can be provided with appropriate treatment followed by supervision for as long as there is a likelihood or possibility of recidivism. Only by so doing will we provide true social welfare, with all that implies."

28. Consistent with these facts, in its opinion of 14 March 1930 the Council of State thus proposed consolidating the two draft laws into a single text along the lines of the Belgian Act of 15 May 1912, entitled "Draft Law on the Protection of Children" consisting of two chapters: "I. On forfeiture of parental authority"; and "II. On measures to be taken regarding minors brought to court". Luxembourg's draft law on the protection of children broadly reproduces the provisions of our neighbour's legislation, which, in the view of the Higher Court of Justice, is highly appropriate to our own situation, particularly in view of the fact that the two countries have the same Criminal Code.

3. Protection of Children Act of 2 August 1939

(a) Chapter I: On forfeiture of parental authority

29. The legislature intended forfeiture of parental authority, not to punish culpable parents, but to protect the children, except in two explicitly envisaged and extremely serious cases, in which it is mandatory and total, namely: (a) situations in which the parents are convicted for indecent acts, rape or habitual incitement to vice; and (b) situations in which the parents are sentenced to a serious penalty for any criminal act, other than abortion or infanticide, committed against the person of their child or descendant.

30. In all other cases, the legislature accepts the principle of partial forfeiture, which may be suspended, and allows judges broad powers of discretion and a fairly wide scope of application. The court may wholly or partially deprive the father and mother of parental authority if: (a) they keep a house of ill repute; (b) through ill-treatment, abuse of authority, notorious misconduct or serious negligence in the performance of their statutory obligations, they jeopardize the health, safety or morals of their child; (c) they have been deprived of the exercise of their family rights; or (d) they have been sentenced to a serious penalty for a crime.

31. The fact that the right to institute proceedings for forfeiture of parental authority is not confined to the Public Prosecutor's Office but is also extended to certain members of the family enhances the effectiveness of the law, and in this regard it should be stressed that the mother is released from the constraint of marital authorization required in order to take proceedings. The family council and the court's supervision of the appointment of the guardian serve to safeguard minors' interests.

32. The procedure laid down for urgent hearings before an interim relief judge, a reduction in the time for appeal and the option afforded to the court to reverse its decision confer some flexibility on the Act. The fact that the text is also applicable to unacknowledged illegitimate children and to minors of foreign nationality, and that it also provides for the imposition of sanctions

on those who seek to deny children the protection measures ordered by the courts shows that the smallest details have been foreseen and taken into account.

(b) Chapter II: On measures to be taken regarding minors brought to court

33. The Act's most important innovation was incontestably the creation of a special court for children attached to the country's two circuit courts. That new court, for which the need had been felt for more than a quarter of a century, exercises jurisdiction only over acts of which minors are accused. The juvenile judge's jurisdiction extends first and foremost to acts committed by children under 18 years of age constituting criminal offences. An exception is made for minor offences, for which the minor will appear before the justice of the peace, provided he is not a reoffender (art. 20). In this provision the legislature departed from the Belgian legislation, instead following, for various reasons, the French Act of 22 July 1912. Firstly, in bringing the minor before the justice of the peace for an offence usually of a minor nature, it wished to avoid the inconvenience and travel costs that would otherwise be incurred by minors, parents, persons having custody or guardians, and by witnesses living some distance away from the chief town of the judicial circuit where the juvenile judge has his seat. Secondly, as the case is heard by the justice of the peace in his chambers and in camera, the minor and his legal representative are spared the publicity of an ordinary hearing, and also shielded from contact with adult defendants.

34. In either case, the justice of the peace or juvenile judge has only to decide whether the minor has actually committed the offence of which he stands accused. He no longer has to consider, as he did in the past, whether the minor did or did not act with due discretion. The minor is presumed to have acted without discretion. He is also declared to be immune from criminal responsibility, at least where penalties are concerned. Penalties are done away with and replaced by guardianship, educational and protective measures. As appropriate, the judge may either reprimand the child and return him to the persons who had custody of him, enjoining them to supervise him more closely in future; hand him over, conditionally or otherwise, to an individual, association, charitable or public or private educational institution until he reaches the age of majority; or else place him at the disposal of the Government until his majority or even beyond that age, though not beyond his forty-first year.

35. Where the minor is returned to his parents, an individual worthy of confidence or an institution, and has left a State institution, the judge may impose a regime of non-custodial supervision until the age of majority. That control is exercised by "child protection supervisors" under the direction of the juvenile judge. Whatever the measure prescribed by the judge, it may be changed or revoked at any time if he considers that its aim of rehabilitating the minor has been achieved. In any case, any measure taken by the juvenile judge must be reviewed every three years if its effects have not ceased in the meantime.

36. As there are no longer penalties for children under 18 years of age who have violated the Criminal Code, it is only logical that the Act should also provide that decisions of the juvenile judge should not be placed on the court record. They are, however, communicated to those who need to be aware of them, namely, the judicial authorities in the case of new proceedings; and injured

third parties who request them in order to take proceedings for damages - our legislature having deemed that the juvenile court is not the appropriate place to embark on a debate in which the child offender's personality is liable to yield precedence to matters relating to the settlement of private interests. Consequently, article 32 of the Act provides that "the criminal indemnity action resulting from the offences tried before the juvenile judge may be brought only before the civil judge."

37. When adopting the Protection of Children Act of 2 August 1939, the legislature abolished the right of paternal punishment as regulated by articles 375 to 383 of the Civil Code. At that time, however, it would have been hard to conceive of the legislature abolishing that right without providing for the possibility of bringing proceedings against children who through their misconduct or lack of discipline give their parents, guardians or other custodians serious cause for anxiety - particularly as it imposes obligations on them until the children reach the age of majority. It is against that background that article 28 of the Act authorizes the juvenile judge to take, even on a verbal request by the parents, one of the measures specified above vis-à-vis minors under 21 years of age.

38. Such are the main features of the Act of 2 August 1939. While essentially pursuing the aim of caring for morally abandoned children and rehabilitating children in conflict with the law, and while only in exceptional circumstances permitting the juvenile judge to take preventive action to remove a minor from an environment in which he is exposed to crime or to assist the parents in their efforts to control the child's misconduct, it nevertheless constitutes a piece of legislation of the highest importance.

4. Protection of Young People Act of 12 November 1971

39. At its meeting on 13 May 1965 the Chamber of Deputies adopted a motion calling on the Government: (a) to prepare a general draft law on the protection of young people, involving the creation of a social service to assist children, vested with appropriate powers, on the basis of experience gained from abroad in this area, particularly in countries bordering Luxembourg; and (b) to study the question of placing all judicial functions concerning the protection of children and young people in the hands of the juvenile judge. In conformity with the wish expressed by the Chamber, the Government entrusted the legislative committee of inquiry with the task of preparing a draft law on the protection of children, which was tabled in the Chamber of Deputies on 9 December 1969.

40. As regards "the creation of a social service to assist children", as called for by the Chamber of Deputies in its motion of 13 May 1965, with a view to preventing the disintegration of families and social maladjustment among young people by means of preventive social measures, the legislative committee was of the view that that role fell to the services already existing in our country: the social services of the municipalities, of the Red Cross, of the various administrations (e.g. the health inspectorate), and of other bodies such as the schools services. The special committee of the Chamber of Deputies, while recognizing that most of the factors and social environments that encourage maladjustment among children are familiar to those services, also noted that, because of a lack of coordination, the efforts of those bodies were too diffuse. The then Government was aware of that difficulty and had informed the special committee that a draft law was in preparation in the Ministry of the Family,

dealing, inter alia, with preventive social action, placement of children away from the family home, medical measures and supervision of family benefits.

41. Like the Act of 2 August 1939, the Act of 12 November 1971 was based essentially on Belgian law, and in particular on the Belgian Act of 15 May 1912, amended on 8 April 1965, as well as on a few specific provisions borrowed from the French system. It differed from our legislation of 1939 in including the following innovations:

(a) The procedure for forfeiture of parental authority was reformed so as to abolish its mandatory nature and reduce the number of cases of optional exclusion. Until that date, it could be instituted either by the minor's close relations or by the Public Prosecutor's Office. Henceforth, imposition of that measure was to be the sole preserve of the Public Prosecutor's Office. Whereas under the regime of the 1939 Act a request for restitution could be made only after a lapse of ten years or five years respectively, depending whether the forfeiture had been mandatory or optional, the time limit was now reduced to five years in both cases;

(b) Replacement of the juvenile judge by a juvenile court. The designation of a new authority responsible for jurisdictional protection of young people has the advantage of making it clear that the body is a real court, composed of a judge, an official of the Public Prosecutor's Office and a Clerk;

(c) Broadening of the powers conferred on the juvenile court, particularly so as to extend its preventive function. The 1939 Act gave the juvenile judge the power to take measures vis-à-vis minors under 18 years of age who indulged in vice or sought their livelihood in gambling or in trafficking or occupations that exposed them to prostitution, beggary, vagrancy or crime, or who were habitual truants. The 1971 Act first extended the powers of the juvenile court to cover minors under 21 years of age. It also permitted that court to intervene not only in cases where minors are in danger on their own account or through their own fault, but also in cases where they are in danger as a result of educational shortcomings and a lack of parental supervision or because the parents neglect to take appropriate measures with regard to physically or psychologically deficient children. While retaining the four measures that the juvenile judge had been able to take vis-à-vis children under the 1939 Act, the 1971 Act allows the juvenile court to subordinate one or other of the measures taken vis-à-vis a minor to one or several of the following conditions: (i) regular attendance at an ordinary or special educational establishment; (ii) performance of an educational or philanthropic service commensurate with age and resources; or (iii) compliance with the educational and medical instructions of an educational or psychiatric guidance centre;

(d) Enhanced court protection of minors - particularly those whose psychological or mental health, education or social or moral development are at risk - by the insertion of two new articles (arts. 401 bis and 272 bis) in the Criminal Code. Article 401 bis was intended by the legislature to ensure better protection of abused children by imposing heavy sanctions on brutal parents and other persons who ill-treat children or deprive them of the care appropriate to their age or circumstances. Article 272 bis is intended to prosecute and punish homosexual abuse of minors. The drafters of this article did not intend, however, to make homosexual practices as such an offence, but to protect minors against debauchery;

(e) Extension of the juvenile court's jurisdiction to cover minor offences. The 1971 Act, unlike that of 1939, no longer draws a distinction between crimes and offences on the one hand and minor offences on the other. Under the 1939 Act, a minor who had committed an offence of the latter category was brought before the justice of the peace and not before the juvenile judge, so as to spare all those involved inconvenience and travel costs in connection with what is usually a relatively trivial matter. The drafters of the new legislation did not consider that those grounds justified retention of the distinction found in the 1939 Act, and they stressed that, where protection of young people is concerned, the characterization at law of the act committed by the minor is of less significance than his social conduct. By bringing even relatively trivial cases before the juvenile court, the new legislation should make it possible to identify cases of maladjusted minors requiring its intervention and enable it to prevent potential crime;

(f) Possibility for the juvenile court to relinquish jurisdiction over a case brought against a minor over 16 years old in favour of an ordinary court. This important innovation constitutes an exception to the general principle whereby all minors under 18 years old are placed beyond the reach of courts of criminal jurisdiction. Under the new legislation, the juvenile court may decide on such a transfer if it "deems a guardianship, protective or educational measure inappropriate". This new provision constitutes a retreat from the provisions of the 1939 Act, if we interpret it as meaning that the court considers that the young person cannot be rehabilitated by means of educational measures. That, however, was not the legislators' intention. On the contrary, they were envisaging cases where those measures seem unnecessary because the criminal act committed by the minor - e.g. traffic offences - in no way implies anti-social tendencies calling for intervention by the juvenile court. By empowering the court to hand over jurisdiction in certain cases to criminal courts, the legislature opted for a flexible solution, meeting both the requirement of protecting young people and that of protecting public order. In the legislators' view, that solution also removed the anomaly whereby a minor is declared capable of the discretion necessary to drive a motor vehicle (a light motorcycle or a tractor) but at the same time is considered exempt from criminal responsibility. In the case of traffic accidents, the possibility of transferring the matter to the ordinary criminal court has the further advantage of providing better safeguards for the interests of the injured third party, as a criminal indemnity action can be brought simultaneously with the criminal proceedings. Nevertheless, both the Council of State and the special committee of the Chamber of Deputies expressed the wish that the juvenile courts would exercise circumspection in their use of the option of transfer conferred on them by the Act, taking the young offender's interests as their sole criterion. In the view of the two senior bodies, the sentence passed on the minor by the criminal court must in no circumstances adversely affect his future, regardless of the nature of the act he may have committed. Likewise, the Act provided that judgements against minors (under 21 years of age) are not to be entered in the court record, even where the sentence is handed down by ordinary courts after a decision by the juvenile court to transfer to them cases involving minors who have attained the age of criminal responsibility (namely, 18 years of age).

5. Act of 18 April 1984 concerning Delegation and Forfeiture of Parental Authority and Supervision of Social Security Benefits

42. With the proclamation by the United Nations General Assembly of 1979 as the International Year of the Child, the Luxembourg legislature saw fit to reconsider the position of children in our legislation. Following the entry into force of the Act of 13 April 1979 Reforming the Law of Relationship by Descent, extending the same treatment under the law to children born out of wedlock as to those born in wedlock, our law could now broadly speaking be deemed to provide satisfactory protection for children with regard both to their civil rights and to law enforcement. Nonetheless, there was still some room for improvement regarding certain matters of detail.

43. To secure this, a "draft law concerning the protection of young people, delegation and forfeiture of parental authority and supervision of social security benefits" was drawn up during International Year of the Child and tabled in the Chamber of Deputies on 27 January 1982. As the draft law actually consisted of two parts - the first dealing with protection of young people as such, the second with forfeiture and delegation of parental authority and supervision of social security benefits - the Council of State proposed recasting it as two separate draft laws, on the grounds that it was undesirable to incorporate provisions establishing the rules of jurisdiction and procedures of the juvenile courts and judges in an Act containing many other legal rules unrelated to those special jurisdictions. The Council of State's proposal was accepted by the Government and by the legal committee.

44. Under this Act, the provisions relating to forfeiture of parental authority that since 1939 had been set forth in the Protection of Children Act were incorporated in the Civil Code (Title IX, ch. IV), complementing the provisions it had contained since it had been reformed under the terms of the Act of 6 February 1975 concerning Civil Majority, Parental Authority, Statutory Administration, Guardianship and Emancipation (Title IX, chs. I and II). Similarly, the new provisions permitting voluntary or compulsory temporary delegation of the attributes of parental authority to persons other than the minor's parents were incorporated in that same title of the Code (ch. III).

45. Lastly, article II of the 1984 Act incorporated another important innovation in the Civil Code. That new article makes the system of supervision of social security benefits standard practice, by enabling a confidential agent to be appointed to receive funds released by social security institutions and intended for minors, if the parents use them for purposes other than the children's interest. Previously, such a system had existed only in respect of family allowances.

6. Protection of Young People Act of 10 August 1992

46. The draft law was intended to improve and adjust certain details of the Protection of Young People Act of 12 November 1971. Amendments had proved necessary in order to take account of scientific and societal developments in this area, to bring the law into line with the facts, and to embody in legislation what was already accepted in practice. The text was adopted on first reading on 14 March 1984. But following disagreements between the political parties over a few specific provisions, the draft was eventually not adopted.

The dispute concerned two innovative features of the text. The first placed homosexual and heterosexual acts on an equal footing and proposed abrogation of the article 51 that the Protection of Young People Act of 12 November 1971 had inserted in the Criminal Code (art. 372 bis). A comparison between that article and the provisions of article 372 shows that male and female homosexuals are treated more severely than heterosexuals. The second provision of the original draft law that gave rise to strong criticism concerned the right of the juvenile judge to authorize medical intervention on the minor's person regardless of objections by the parents or guardians.

47. In view of the various criticisms levelled against the draft law adopted on first reading in 1984, on 8 July 1991 the Government, after consulting with numerous bodies and experts, finally tabled a number of amendments to the said draft law in the Chamber of Deputies. Following an opinion of the Council of State dated 22 October 1991 and a report of the legal committee dated 18 March 1992, the Protection of Young People Act was finally adopted by the Chamber of Deputies on 10 August 1992. That legislation represents a total recasting of the Act of 12 November 1971 and includes a number of improvements and innovations dealing, inter alia, with the following points:

(a) Possibility of prolonging guardianship, educational or protective measures until the age of 21 (art. 1). This possibility is intended to allow a young person who has attained the age of majority to complete studies embarked upon during his minority or to complete an apprenticeship. It cannot be imposed upon him, unless he has committed an act characterized as a crime by the Criminal Code. In other cases, it can be maintained only for as long as the former minor consents thereto: the judge is obliged to revoke it when the person concerned so requests;

(b) Possibility for the juvenile court to place minors in reformatories abroad. This provision was necessary in view of the limited number of specialized establishments in Luxembourg;

(c) Right of the minor himself to request a guardianship measure (art. 9). This article is innovative in that it gives the juvenile judge the legal means directly to assist minors who approach him, particularly when they are victims of ill-treatment or exploited by their parents. The juvenile judge is, however, required to re-examine the situation and take a final decision within a fortnight after hearing or at least summoning the minor's legal representative, and acting on a report by a probation officer;

(d) Possibility for the juvenile judge to order a provisional guardianship measure vis-à-vis the minor (art. 25). Under the Act of 12 November 1971 the examining magistrate and the Public Prosecutor were empowered to take such a measure if it proved necessary in the case of a minor who had committed a breach of the Criminal Code. Henceforth, in the case of proceedings against a minor, only the examining magistrate may order a guardianship measure. In other cases, if the matter is urgent, provisional guardianship measures may be ordered by the juvenile judge or, in his absence, by the Government Procurator. Release from a provisional guardianship measure may be requested (art. 27);

(e) Transfer of certain attributes of parental authority in the event of placement of the minor away from his parents', guardian's or custodians' home (art. 11). The purpose of this article is to specify the regime applicable to

parental authority during the time in which the child is removed from his parents' custody by a court decision; distinguishing between control of the minor's person and management of any property he may possess. As the placement measures ordered are not intended permanently to separate children from their parents, the parents retain in principle a right to visit and to correspond. This new article also excludes from transfer of parental authority the most serious acts, namely, the rights to consent to marriage and adoption. While the principle of automatic transfer of the attributes of parental authority in the event of judicial placement of a minor away from the family home was unanimously supported at the time of the preparation of the draft law in 1979, it should be pointed out that this has ceased to be the case since the start of its application in 1992. The last 15 years have seen a profound change in educational, pedagogical and therapeutic approaches in reception centres and other social structures, the trend being for the families of origin to be involved and given responsibilities. Against that background, the managers of reception centres take the view that the new provision creates more problems than it solves. Consequently they are anxious that transfer of the attributes of parental authority should remain optional in the case of judicial placement of a minor, especially as they consider that, as presently worded, the provision conflicts with articles 8 and 18 of the Convention on the Rights of the Child;

(f) Alterations to practice regarding leave of absence (art. 12). The purpose of this article is to extend formal recognition to a practice that has long existed, by means of a text that assigns the juvenile judge and the directors of the establishments the right to grant leave of absence to minors placed in their care, for weekends, school holidays, or for a longer period, so as to enable these young people to prepare themselves for life in society before their final release from placement;

(g) Right of minors to choose a lawyer or to have one appointed by the juvenile judge, regardless of the parents' choice - or, where applicable, their failure to choose (art. 18). Ever since its entry into force this article has run up against difficulties of application on account of provisions of the Profession of Lawyer Act of 10 August 1991. Explicit changes were made to it in the Legal Aid Act of 18 August 1995;

(h) Authorization of medical intervention on a minor notwithstanding the parents' opposition (art. 7, subparas. 3 and 4). The amendment to this article is intended to introduce a legislative solution in the event of there being serious and immediate danger to a minor's life or health resulting from a refusal by those who have custody of the child to subject him to treatment considered indispensable by a doctor. After eight years of reflection and discussion, the legislature finally concurred with the opinion of the Council of State "that doctors' activities should not be hampered by procedural formalities, but should be exclusively a matter for their professional conscience." Consequently, it proposed removing the requirement for an intervention by the juvenile judge, while providing for the obligation for the doctor to submit a report to the Government Procurator within three days;

(i) Abrogation of article 372 bis of the Criminal Code (art. 51 of the Act of 12 November 1971) making indecent assault committed by an adult without violence or threats on the person of a minor of the same sex a criminal offence. The draft text proposing the outright repeal of article 372 bis of the Criminal Code had given rise to very heated discussion, less because it abolished the

discrimination between heterosexual and homosexual relations than for physiological reasons relating to age and maturity. Article 372 of the Criminal Code renders indecent assault committed without violence or threats punishable only if the child is under 14 years old. Outright repeal of article 372 bis would have had the effect of authorizing both heterosexual and homosexual intimate relations, based on free consent, with children over 13 years old. A 1990 study showed that only four countries (France, Belgium, Norway and Sweden) out of the 40 Council of Europe Member States provided for a uniform age and that the age limit was set at 16 in the majority of countries. Our legislature finally concurred with the Government's proposal for an amendment of 8 July 1991, intended to repeal article 372 bis while specifying in article 372 that "any indecent assault, committed without violence or threats, on the person or with the aid of the person of a child of either sex under 16 years of age will be punished by one to five years' imprisonment."

7. Conclusion

48. Almost half a century passed between 1890, when Auguste Ulveling first drew the public authorities' attention to the situation of children in Luxembourg before going on to submit his preliminary draft law on "morally abandoned children" in 1905, and 1939, when the Luxembourg legislature resolutely embarked on the road to progressive and effective judicial protection of children by adopting its first Protection of Children Act. Since then it has twice adapted the provisions of that specific piece of legislation in response to advances in the fields of psychology, the social sciences and education, also taking account of the development of our civil rights legislation on matters such as parental authority, the age of majority, statutory administration and affiliation.

49. In the last analysis, when reviewing the progress made in Luxembourg in the course of this century in the field of judicial protection of children and young people, one can only answer those who reproach the legislature for its slow pace and undue hesitation by repeating the words of Count Archot, cited by Wets in L'Enfant de la justice: "On humankind's difficult road, children will always be our noblest motive for striving and hoping."

C. Endorsement of the Convention on the Rights of the Child

50. The Grand Duchy of Luxembourg was one of the last signatories to the Convention on the Rights of the Child to ratify the Convention. A draft law was presented by the Government during the 1991-1992 parliamentary session. Opinions were delivered on the draft by the Council of State, the Foreign and Community Affairs Committee of the Chamber of Deputies, the Higher Council for the Family and Children (an organ composed of the most representative associations and bodies working in the fields of the family and children, whose role is to give its opinion, at the Government's request, on any measures to be taken in the fields of the family and children), the Reception Centres Managers' Combine, the Family Committee and the Legal Committee of the Chamber of Deputies.

51. The public debate in the Chamber of Deputies extended over two days. The speakers representing the various political parties stressed the importance of the Convention and the debates, which were of a high quality, showed that rights of the child must be improved at both national and international levels. Fifty-nine deputies voted in favour of the draft law, with one abstention.

52. Four motions were adopted. The first invited the Government to organize an information campaign on the major provisions of the Convention and to prepare a draft law instituting a post of ombudsman for children, appointed by the Chamber of Deputies. The draft law is presented in detail in chapter I, section D.1. The second motion proposed the preparation of a draft law amending article 11 of the Protection of Young People Act of 10 August 1992 (see chapter I, section B.6) so that parents, guardians or persons having custody would retain parental authority over the minor placed away from the home, but permitting the juvenile court or judge, where appropriate, to transfer the attributes of parental authority to the person to whom or the establishment to which the minor is entrusted. Some speakers pointed out that the Grand Duchy has no legislation criminalizing possession of pornographic material depicting minors. The third motion invited the Government to adapt the criminal law concerning offences against public morals, with a particular view to prohibiting possession of pornographic material featuring children, and to work at European level to secure a common approach by Member States aimed at effectively combating pornography involving children. The last motion invited the Government to submit to the National Consultative Committee on Life Sciences and Health Ethics, for an opinion, the questions of the anonymity of the parents in cases of anonymous births and of the anonymity of the father in cases of artificial insemination by anonymous donor.

53. On 20 December 1993 the Act Endorsing the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 December 1989 and Amending Certain Provisions of the Civil Code was adopted. The Grand Duchy of Luxembourg entered the following reservations:

1. The Government of Luxembourg believes that it is in the interest of families and children to maintain the provision of article 334-6 of the Civil Code, which reads as follows: "If at the time of conception, the father or mother was bound in marriage to another person, the natural child may be raised in the conjugal home only with the consent of the spouse of his parent."

2. The Government of Luxembourg declares that the present Convention does not require modification of the legal status of children born to parents between whom marriage is absolutely prohibited, such status being warranted by the interest of the child, as provided under article 3 of the Convention.

3. The Government of Luxembourg declares that article 6 of the present Convention presents no obstacle to implementation of the provisions of Luxembourg legislation concerning sex information, the prevention of back-street abortion and the regulation of pregnancy termination. [See chapter VII, section B.4.]

4. The Government of Luxembourg believes that article 7 of the Convention presents no obstacle to the legal process in respect of anonymous births, which is deemed to be in the interest of the child, as provided under article 3 of the Convention. [See chapter III, section B.]

5. The Government of Luxembourg declares that article 15 of the present Convention does not impede the provisions of Luxembourg legislation concerning the capacity to exercise rights.

54. With regard to the amendments to the Civil Code, note should be taken of article 388-1:

"Court hearings involving children and the defence of their interests:

(a) In any proceedings concerning him, the minor may, without prejudice to the provision made for his intervention or consent, be heard by the judge or the person appointed for that purpose, unless the age or state of the minor do not so permit.

(b) When the minor so requests, his court hearing may not be excluded except by means of a specially reasoned decision. It may be appealed against only in conjunction with the decision on the merits of the dispute. The minor may be accompanied by the person of his choice.

(c) The minor's court hearing shall not classify him as a party to the proceedings.

(d) When in proceedings involving a minor his interests appear to conflict with those of his legal representatives, an ad hoc administrator shall be appointed by the judge hearing the proceedings or by the guardianship magistrate."

55. In November 1993 the Minister of the Family and Solidarity decided to set up a Working Group on Promotion of the Rights of the Child. This group, consisting of parliamentarians, experts, officials and representatives of non-governmental organizations (NGOs), was entrusted with the tasks of: examining the application of the principles contained in the Convention to cases assigned to the Department of the Family and Solidarity; drafting proposals for measures to guarantee fuller respect for the rights of the child; and giving especial consideration to the motions adopted by the Chamber of Deputies, and in particular the motion concerning the establishment of a post of ombudsman for children.

56. In the governmental declaration of 22 July 1994, the Government considered "that the next legislature will also be used to promote the rights of the child. In this context, the possibility of setting up an institution for the defence of children's rights will be studied."

57. In 1995 a Children and Family Section was set up in the Ministry of the Family. The area dealing with the social protection of children has as its tasks and functions promotion of children's rights, social protection of children, and policy concerning placement.

58. With regard to budgetary resources, the Budget Act concerning State Revenue and Expenditures for the 1995 Financial Year includes a 500,000 franc item of ordinary expenditure for implementation of the programmes of action to promote the rights of the child. Provision has been made for an overall budget in the same amount for the 1996 financial year. In the event that the objectives set forth in the draft law on promotion of the rights of the child and social protection of children are attained (see chapter I, section D.1), appropriations under this heading will be substantially increased.

59. With regard to the proportion of the national budget devoted to social priorities targeted on children (at national and local levels), it is difficult to give precise figures. Nonetheless, the Department of the Family has carried out an evaluation of budgetary expenditures specifically devoted to children, on the basis of the draft budget for the 1996 financial year (see annex 2).

60. Luxembourg legislation has undergone profound changes over the last 20 years (see chapter I, sections B.4 - B.6). With regard to the legal status of the Convention, the Grand Duchy of Luxembourg applies a monistic system, with international law directly applicable in the State's legal system. In principle, international treaties that have been endorsed through the legislative channel in the Grand Duchy are directly applicable. In Luxembourg law an international treaty therefore has a legal value superior to that of our domestic laws. Thus, unlike the 1959 Declaration of the Rights of the Child, the Convention is a legally binding instrument (see core document).

61. In its opinion on the draft law endorsing the Convention on the Rights of the Child, the Council of State considered that many articles of the Convention contain provisions that are not directly applicable. Similarly, the Higher Council for the Family and Children concluded in its opinion that those provisions instead set forth guidelines, a recommendation or a moral commitment, and that the State assumes the obligation to adapt its legislation along the lines of the Convention.

62. The Council of State considers that it is for the courts alone to decide whether or not an international convention is sufficiently precise to be applicable. The Court of Appeal, in a judgement delivered on 7 March 1994, considered that the Convention is directly applicable with regard to the penalties to be imposed on minors for breaches of criminal law, in view of the principle that the international rule is self-sufficient if its operative part itself enunciates a rule of conduct binding on those addressed therein; such is the case if it is sufficiently clear and precise to justify its domestic application without further intervention by the national authorities, as, for example, in the case of application of article 37 of the Convention to young offenders.

63. It is for the legislature to determine what means are to be used in the domestic legal system to bring legislation into line with the Convention, given that cases involving the rights of the child are by their very nature sensitive cases from which all legal uncertainty must be banished.

D. General Measures of Implementation

1. Draft laws and regulations concerning promotion of the rights of the child and social protection of children

64. In the context of ratification of the Convention on the Rights of the Child, the Chamber of Deputies adopted four motions concerning the establishment of a post of ombudsman for children, parental authority, pornography involving children, and anonymous births (see para. 52).

65. While the many educational, political and social advances made for the benefit of our children and their families constitute undoubted achievements, promotion of the rights of the child in Luxembourg calls for continued vigilance

on the part of the Luxembourg authorities. Many situations relating to the situation of children or young people in Luxembourg continue to pose challenges. These include consumption of alcohol and drugs; integration difficulties experienced by foreign children; increasing physical and sexual violence in our families; the glorification of violence in some of the media; a disquieting increase in violent behaviour among children and adolescents; placement of children away from their family homes; and a psychologically damaging affective and relational breakdown in a growing number of families.

66. The draft laws and regulations are intended to promote the rights of the child and to provide social protection of children, and emphasize the public authorities' specific missions in the fields cited above (see annexes, passim).

(a) The Luxembourg Committee on the Rights of the Child

67. The spirit that underlies the provisions of the Convention marks the beginning of a new attitude in our approach to children. Thus, the Higher Council for the Family and Children notes that the Convention "prompts us to think again about children's legal status and their situation in the family and society in our country. The Council wishes to stress at the outset that there are a number of fields in which children need to be better regarded and respected as fully fledged individuals who, while they deserve protection, also deserve respect for their human dignity and their inherent fundamental rights."

68. In some States parties to the Convention, specific organs have been set up to:

(a) Analyse the mechanisms introduced to protect and promote the rights of the child;

(b) Examine situations in which rights of the child are not respected;

(c) Propose measures to promote those rights;

(d) Deliver opinions on laws and regulations concerning the rights of the child;

(e) Prepare reports on the situation of the rights of the child in their respective countries;

(f) Disseminate the Convention's principles and provisions;

(g) Promote the development of children's freedom of expression;

(h) Secure their countries' cooperation in international initiatives to protect and promote the rights of the child.

69. In its Recommendation 1121 on the rights of children (forty-first ordinary session, 1990), the Parliamentary Assembly of the Council of Europe invites Member States "to envisage, if they have not yet done so, the appointment of a special ombudsman for children, who could inform them on their rights, counsel them, intervene and, possibly, take legal action on their behalf". That concern was shared by the Chamber of Deputies when it adopted the motion concerning the establishment of a post of ombudsman for children. It should be emphasized that

the establishment in 1952 of the Higher Council for the Family and Children, in which the most representative family services and associations are represented, served the same cause.

70. The Working Group set up by the Ministry of the Family (see para. 55) studied, inter alia, the question of establishing a specific structure (on the "ombudsman" or "mediator" model) to promote respect for children's rights on a permanent basis. The authors of the draft law consider that it would be problematical to entrust those duties to just one person or to expose a single individual to them. Rather than proposing an "ombudsperson", they favour the idea of a select committee. So as to stress the authority and independence of that organ, they recommend nomination of its members by the Chamber of Deputies and their appointment by the Head of State. The effectiveness of the Committee will largely depend on the competence, independence and availability of its members and the extent to which it is multidisciplinary and pluralistic in its composition.

71. While the Committee has the right and the obligation to hear any child who requests a hearing, it will not be responsible for dealing personally with each child's difficulties, sufferings, concerns or ambitions. Its aim will be to achieve a better understanding of and insight into the existing mechanisms and of their day-to-day functioning. Within the overall context of the various institutions in Luxembourg called upon to protect and promote children's rights, the Luxembourg Committee on the Rights of the Child will serve as a body providing moral information, analysis, mediation and counselling. Its work will be a valuable instrument at the service of a creative and innovative policy to benefit children living in the territory of the Grand Duchy of Luxembourg.

(b) Social protection of children

72. In this context, attention should be drawn to the indispensable contribution made by many public and private services that provide training, placement, information, counselling, guidance and assistance. Over the last 20 years these services have undergone a number of sweeping reforms: introduction of professional management and qualified assistants, decentralization of the large institutions, reorientation of therapeutic, social and educational conceptions to reflect advances in the human sciences, and increased emphasis on the tasks of integration, standardization and participation. Through agreements concluded between the managing bodies and the relevant ministerial departments, the State has gradually taken on substantial financial commitments and assumed responsibilities with regard to coordination and orientation of projects. Given the large number of projects and individual initiatives, coherence, coordination and rigorous cooperation are essential.

73. Particular sensitivity is called for in dealing with the thorny problem of placement of children away from their family environment. The Ministry of the Family estimates the number of children accommodated day and night in children's homes or families at almost 700 (666 children at 1 January 1995, or 0.7 percent of all minors).

74. It should be stressed that the trend towards reform outlined above has been particularly spectacular in this area. In the children's homes, the children and young people live in small units (each with eight occupants), in which they are supervised by a team of qualified specialized teachers (five per

group). The physical infrastructures take account of the normal standards of safety and comfort. The staff are provided with appropriate back-up services (supervision, on-the-job training, advice from experts in the field of human sciences, etc.). The families providing foster-homes for children in the framework of family placement measures are recruited and supervised by specialized services. In this way it has been possible to develop a broad and effective range of measures to prevent potential abuses of the kind associated with placement measures.

75. Measures taken within the framework of the Protection of Young People Act of 10 August 1992 (see chapter I, section B.6) are monitored by the competent judicial authorities. At present the laws and regulations specify neither the body nor the forms of decision relating to placements of children effected outside the framework of the Protection of Young People Act. Similarly, no institution is formally appointed to monitor them. Here again, mention must be made of the spirit of initiative and responsibility demonstrated by the managing bodies and services concerned, who have often set up self-regulation and follow-up mechanisms on their own initiative. It is not the draft law's intention to halt that movement, but rather, to guide, support and strengthen it and to extend it to cover all existing situations. In the draft law, that mission is officially entrusted to the Ministry of the Family, which will work in concertation with the managing bodies and the institutions concerned in order to respond to it.

76. The draft law assigns the Ministry of the Family the task of developing, encouraging and supporting the training, consultation and assistance services for children and parents, and of contributing to coordination of their actions. The services' function is to stimulate and coordinate projects to promote and protect children's rights and those of conjugal and family communities. They aim to secure the active participation of children, autonomy of family communities and the personal development of their members.

77. The social protection tasks consist of: (a) information, guidance, coordination; (b) promotion of children's rights; (c) support for services providing training, consultation, mediation and assistance; (d) assistance to children placed away from their family environment; and (e) participation in supervision of service staff.

78. Under the auspices of the Ministry of the Family, a Children's Bureau is being set up to help give the tasks of social protection of children tangible form. The Children's Bureau is empowered to set up regional offices and provides reception, information, guidance and mediation services.

2. Measures Taken to Make the Convention Widely Known (arts. 42 and 44, para. 6)

79. International Year of the Family, celebrated in 1994, was the occasion for the launching of an extensive campaign to publicize the principles and provisions of the Convention on the Rights of the Child. From among the many initiatives, a few examples may be singled out, either on account of their particular impact, or because their originators envisaged extending them in the years to come.

80. As long ago as 1985, during International Youth Year, the Grand Duchy was one of the first European countries to publish a brochure on the rights and duties of young people aged between 12 and 18. In 1994 the authors of that publication produced a new edition addressed both to young people and to adults responsible for their supervision, whether in the family, at school, in the voluntary sector or at work. This very voluminous publication has the advantage of being based on the articles of the Convention, as well as on the relevant provisions of our domestic legislation and regulations.

81. Entitled "Young People, Your Rights and Duties", it deals with complex issues, couched in the form of questions that young people may ask themselves in their daily lives. The drafting committee succeeded in formulating accurate answers in a simple and comprehensible language. Copious illustrations reinforce the essential messages.

82. In his preface the Minister of the Family states that "it is clear that accurate and comprehensible information constitutes an indispensable pillar for the genuine exercise of children's rights. But it is equally clear that to refer to the rights of participation entails stressing the responsibilities and duties that go hand-in-hand with those rights. Rights and duties are complementary aspects of a coherent overall process of achieving personal maturity and social responsibility."

83. The publication was produced by individuals from the government administration, the Bar and the courts. Broadly speaking, the main chapters cover the following matters:

- young people and parental authority
- young people's identity
- young people moving towards independence
- young people and freedom of expression
- young people and leisure
- young people and school
- young people and apprenticeship
- young people and work
- young people and unemployment
- protection of young people
- young people and cohabitation
- young people and the law.

The work also contains many addresses and an index.

84. Since the appearance of this publication in 1994, the project's originator and coordinator has featured in 52 radio programmes broadcast nationwide, speaking on the rights and duties of children dealt with in the book.

85. In parallel with these two initiatives to promote children's rights, in 1992 a Legal and Social Information Service for Young People, to which more and more children, young adults, parents and professionals are turning for

advice, was set up in the National Youth Service and in the Information, Meeting and Activity Centres for Young People. Lastly, to further facilitate access to information by all children and young people, an "Info-Bus" will come into service in the next few months. It will call regularly at primary and secondary schools, participate in events such as school open days, and engage in various activities including promotion of children's rights.

86. An important achievement during International Year of the Family was the publication of a book for children between eight and twelve years of age entitled Kissenküssenkampf, dealing with family life from the child's perspective. The publication consists of three parts:

(a) An initiation into the various themes of family community life (the wide range of types of family community, integration of the family in the community, the organization of family life, rights and duties of members of the community, relations with school and the world of work, risks of disintegration of the family unit, difficulties and problems, joys and satisfactions);

(b) Documentation on living conditions in families in the past and/or in other regions of the world; documents on children's rights and the Convention;

(c) Literary texts dealing with various aspects of family life.

87. The book is profusely illustrated and has been recommended to teachers by the Minister of National Education. Published under the auspices of the Ministers of the Family and of National Education, it was prepared by a joint committee of parents, teachers, experts and officials. The authors and editors also included contributions by children living in Luxembourg representing a variety of nationalities, cultures, social strata and family traditions.

88. In collaboration with a cartoonist who is very well known in Luxembourg, the Ministry of the Family has published a light-hearted poster illustrating the fundamental principles of the Convention on the Rights of the Child in seven pictures:

"Children aren't for hitting" (art. 19)

"My parents look after me" (arts. 24, 25 and 27)

"All children are equal" (art. 2)

"I can live in a family" (arts. 9 and 10)

"I can express my opinions" (arts. 12, 13 and 14)

"I can go to school" (art. 28)

"We can set up a club" (art. 15).

This poster has been distributed by teachers to all pre-school and primary pupils in the Grand Duchy of Luxembourg. In 1996, in collaboration with the same artist, the Ministry of the Family will publish a strip cartoon on the specific theme of active participation by children in social life. The main characters (children, parents, mediator) are those featuring on the poster.

89. Other initiatives that should be mentioned in the present report include:

(a) A Youth Parliament (formal closing ceremony attended by H.R.H. the Crown Princess and prominent public officials);

(b) Public conferences with distinguished foreign speakers such as Eugeen Verhellen and Jean-Pierre Rosenczveig;

(c) International congresses such as the European Forum for Child Welfare (official opening attended by H.R.H. the Crown Princess);

(d) Publication of a periodical for 13- to 15-year-old by the Luxembourg Committee of the Red Cross in collaboration with the Ministry of the Family (distributed free of charge);

(e) Release of a compact disk/cassette on the themes of relations between parents and children, dialogue in the family community and calls for tolerance and solidarity (proceeds go to the United Nations Children's Fund (UNICEF));

(f) Exhibition of drawings by refugee children, mounted by the Office of the United Nations High Commissioner for Refugees;

(g) Initiatives by a number of NGOs, including the Luxembourg UNICEF National Committee, the National Association of Educational Communities, the Luxembourg Committee of the Red Cross, CARITAS, Scout and Guide movements, and the Association Protection of the Rights of the Child.

90. This report is published in the form of a booklet. It is presented to the public at a press conference. It is forwarded to senior politicians and to public and private services working in the field of promotion of children's rights. It may be consulted at the Ministry of the Family and in other competent departments.

II. DEFINITION OF THE CHILD

91. In principle the age of majority is set at 18 years. The Luxembourg Civil Code defines a minor as "an individual of either sex who has not yet attained 18 years of age" (art. 388 of the Civil Code, Act of 6 February 1975).

92. At 1 January 1995, of the total population, 92,147 were children (source: STATEC; for further details see annex 4).

Statutory minimum age for certain purposes

93. Compulsory schooling. The Schools Act of 12 August 1912 introduced compulsory schooling, requiring nine consecutive years' compulsory attendance from the start of primary education. For most children compulsory schooling ends at the age of 15.

94. Child labour. Under the Protection of Children and Young Workers Act of 28 October 1969, child labour is regarded as any paid work done by children, as well as any unpaid work done on a repeated or regular basis.

95. It is forbidden to employ children under 15 years of age in work of any nature, except:

(a) Work in technical or vocational schools, provided that it is of an essentially educational nature, that its purpose is not commercial gain, that it is approved and controlled by the competent public authorities, and that the work is not harmful, prejudicial or hazardous for the child;

(b) Assistance rendered in the household by children who are members of the family, provided that the work is not harmful, prejudicial or hazardous for the child. Legitimate and legitimized children, adopted children, and children the beneficiary of whose services assumes lasting responsibility for them are considered members of the family;

(c) Participation by children in public events for artistic, scientific or educational purposes. On a request by the organizers of the event accompanied by a written authorization from the child's father, mother and guardian, an individual authorization may be issued by the Minister of National Education following an opinion of the Director of the Inspectorate of Labour and Mines. The event must not be detrimental to the children's health and morals or harmful to their education. The children must be at least six years old. The events may not take place after 11 p.m.

96. It is forbidden to employ young people under the age of 18 in work that:

(a) is not commensurate with the young person's degree of development;

(b) calls for disproportionate effort on the part of the young person;

(c) risks harming the young person's physical or mental health, whether by virtue of the products to be handled, of the type of work to be done, or of the ambient conditions in the place of work.

97. Annex 5 contains the list of work prohibited on account of its inherent hazards for young people, and of occupations prohibited on account of their inherent hazards to young people's morals.

98. Consent to marriage. Males under 18 years of age and females under 16 years of age are not permitted to enter into a marriage contract. In no circumstances may a minor marry without the consent of the parents or legal representative. In the event of a refusal by the legal representative(s), the circuit court may, at the request of the State Procurator, authorize the marriage if he considers the refusal unjustifiable.

99. Consent of the minor to sexual relations. Article 372 of the Criminal Code is worded as follows: "Any indecent assault, committed without violence or threats, on the person or with the aid of the person of a child of either sex under 16 years of age will be punished by one to five years' imprisonment."

100. Medical counselling. By inference from the principles established elsewhere in Luxembourg legislation, a minor may consult a doctor without the authorization of his parents or legal representative, with a view, for example, to obtaining a prescription for a form of contraception or any other medical treatment. The doctor is obliged to respect professional secrecy, even if he or

she contacts the parents to obtain payment of his fees. Article 7 of the Protection of Young People Act of 10 August 1992 provides that in the event of serious and immediate danger to the minor's life or health a doctor may, should the child's custodians refuse their consent, take any medical measures called for by the situation, in accordance with the rules of the medical profession.

101. Voluntary enlistment into the armed forces. Young people may enlist on attaining the minimum age of 17 (Grand-Ducal Regulation of 22 September 1967 determining the status of army volunteers).

102. Voluntary testimony in court. A minor (under 18 years of age) may not bring an action, as he is deemed to be legally incompetent. He must therefore be represented either by his legal representative or by an ad hoc administrator appointed by the guardianship magistrate if his interests conflict with those of his parents. The Act of 20 December 1993 Endorsing the Convention on the Rights of the Child included a provision amending article 388 of the Civil Code (for more details see para. 54).

103. Criminal liability, deprivation of liberty and imprisonment. See chapter X: Children in conflict with the law.

104. Consumption of alcohol or other controlled substances. Under the terms of the Act of 20 June 1989 reforming the arrangements regulating taverns, "it is forbidden to admit to a drinking establishment legally incompetent persons of full age and minors under 16 years of age who are not accompanied by their legal representative or the person exercising parental authority over them or by any other person over 18 years of age exercising responsibility or supervision." It is forbidden to serve or offer alcoholic beverages to minors under 16 years of age. Any breach of this provision is punishable by a fine of between 2,500 and 10,000 francs. Anyone causing a minor under 16 years of age to become drunk is liable to a fine of between 5,000 and 20,000 francs. This fine is doubled if the guilty party is a publican by trade.

105. Application of article 12 of the Convention. In its opinion on the draft law endorsing the Convention on the Rights of the Child, the Council of State considered that domestic legislation has provided for only two circumstances in which the law prescribes that a given procedure may take place only with the assistance and indeed the consent of a minor. Thus, article 356 of the Civil Code provides that, if the minor is over 15 years old, "the child to be adopted must personally consent to his adoption", and article 334-3 of the Civil Code provides that the personal consent of a child over 15 years old is necessary where the child's affiliation to the father has been established only at a later stage and the father intends to substitute his own name for the name initially conferred on the child.

106. The Council of State proposed including in the Civil Code the legislation adopted by the French National Assembly on first reading (Act amending the Civil Code in relation to Civil Status, the Family and Rights of the Child and establishing the Post of Family Causes Judge). In its opinion on the draft law endorsing the Convention, the Council of State considered

> "that there are grounds for reviewing the age of discretion. This age is liable to vary greatly from child to child, although children aged 6 or 7

are often considered to have due discretion. Two systems are therefore possible to determine when a child has attained due discretion:

- establishment of an age threshold by the legislature, which has the advantage of clarity but the disadvantage of inflexibility;

- a decision by the judge on individual cases in which it serves no useful purpose for the child to receive a hearing; this may depend not only on his age, but also on his physical, intellectual or emotional state."

The Luxembourg legislature opted for the latter solution.

107. Thus, the Act of 20 December 1993 Endorsing the Convention on the Rights of the Child introduced some amendments to the Civil Code (see para. 54). The Association Protection of the Rights of the Child addressed the following remarks to the committee responsible for drafting the present report:

"Article 12 of the Convention confers on the act of giving the child an opportunity to be heard in judicial proceedings the status of a subjective right of the child. To guarantee application of article 12 of the Convention, the legislature has amended the Civil Code by incorporating therein article 388-1, which requires account to be taken of the child's opinion in any procedure concerning him.

However, judicial practice does not seem to be in any hurry to apply that article. One detects a certain reluctance among judges to give children a hearing, a reluctance often attributed to a desire to protect the children.

The parents are invariably regarded as their children's natural protectors, and judges hesitate to give children a say in the matter, even where their interests conflict with those of their parents, so as to avoid having to decide between the - often conflicting - rights of the parents and of the children.

The law accords the minor the right to be assisted by the person of his choice. In practice, however, we note that the lawyer assisting or representing the minor systematically has his mandate challenged. Though some decisions consider "that it is preferable [...] to have recourse to article 388-1, subparagraph 4, incorporated into the Civil Code by the Act of 20 December 1993, in order to require the appointment of an ad hoc administrator", a recent decision of the correctional court of first instance refuses the child represented by his ad hoc administrator a hearing on the grounds that the minor's interests would not conflict with those of his legal administrator.

The text of the Act is already fairly restrictive in itself, in that it always permits the judge to disallow intervention by the minor on the grounds that neither his age nor his state permit him a hearing. If in addition the procedure is unnecessarily rendered more complex by discussions on the appointment of an ad hoc administrator, the text will be destined to remain a dead letter.

The non-profit-making association Protection of the Rights of the Child considers that it is not sufficient simply to recognize the right of the child to be heard and represented independently of his parents as a fundamental right.

Over and above that recognition, it is important to formalize the option for the child to exercise that right through the procedural channel consisting of the voluntary intervention of the child in any proceedings concerning him.

To achieve that aim it will be necessary to heighten awareness in judicial circles and to train experts to be genuine spokesmen for children, to be capable of listening to children and to know how to set down their words. The State should make financial resources available to enable that training and expertise to be offered to protagonists at all levels: lawyers, judges, psychologists, social workers, etc. Training and provision of expertise to those working in the field as well as enhancement of the procedural rights to be exercised directly by children are indispensable preconditions to helping children to assert their rights."

III. GENERAL PRINCIPLES OF PROMOTION OF THE RIGHTS OF THE CHILD

A. Non-discrimination (art. 2)

108. Article 11 of the Constitution provides that there shall be no distinction of orders in the State. The State must guarantee the natural rights of the individual and of the family.

109. All provisions relating to affiliation, parental authority and rights of succession, and in particular articles 334-6, 334-7, 380 and 1527 of the Civil Code, are founded on the same principle. Thus, article 334-6 provides that if at the time of conception the father or mother was bound in marriage to another person, the child may be brought up in the conjugal home only with the consent of the parent's spouse (for further details see chapter VI, section A). Under article 334-7, if there is a legal obstacle to marriage between the father and mother of the illegitimate child based on its parenthood and affiliation is already established vis-à-vis one party, it is forbidden to establish affiliation vis-à-vis the other party (for further details see chapter VI, section A). Article 380 of the Civil Code provides that, if the illegitimate child is acknowledged voluntarily by only one of its parents, parental authority shall be exercised by that parent (for further details see chapter VI, section A). Article 1527, which is actually one of the provisions of the Code regulating matrimonial regimes, also protects the illegitimate child or the child of a previous marriage by providing that any agreement which would result in giving one of the spouses more than the share to which he or she would be entitled if the child did not exist shall be without effect with respect to the excess.

110. Regarding measures to combat racism and discrimination, it is a criminal offence for any person to refuse to supply a service or good to a person or group or community on grounds of race, colour, ancestry or ethnic or national origin or, in procuring or offering to procure a good or service, to practise discrimination against those persons or groups (art. 454 of the Criminal Code).

It is also a punishable offence to publicize the intention to refuse persons referred to in that article a service or good. The same penalty - namely, one week's to six months' imprisonment and/or a fine of between 2,501 and 100,000 francs - is incurred by those publishing writings, printed matter, images or emblems of any sort and thereby inciting others to commit acts constituting offences under article 454, as well as by those belonging to organizations whose objectives or activities consist in committing one of those acts (art. 455). A draft law is in preparation, the purpose of which is to expand the Criminal Code by providing for penalties for acts of racism, revisionism and other conduct based on discrimination (see too chapter XI, section E).

111. Lastly, the measures taken by the Government to benefit disabled people and the efforts made to integrate foreign children show that discrimination is a factor that is constantly being combated (see chapter VII, section D and chapter VIII, sections F and I).

B. Best interests of the child (art. 3)

112. The Act of 18 April 1984 Inserting in the Civil Code Articles 387-1 to 387-8 (on Delegation of Parental Authority) and 387-9 to 387-14 (on Forfeiture of Parental Authority) regulates the exercise of parental authority. Thus, no renunciation or transfer relating to parental authority can have effect unless it has arisen by virtue of a judgement. The renunciation or transfer must also - and here we encounter the concept of the best interests of the child - not be contrary to the child's interests. The same applies in the case of forfeiture of parental authority, which may arise when a parent is sentenced to a criminal or correctional penalty for any act committed against the person of or with the aid of his or her children or descendants.

113. But the State not only protects the best interests of the child against adults, but also protects those interests when the child himself risks compromising his position. Thus, the Protection of Young People Act of 10 August 1992 permits the juvenile judge to take guardianship, educational and protective measures vis-à-vis the child.

114. The concept of protection of the child's best interests is also to be found in the law of affiliation (art. 312 et seq. of the Civil Code). Thus, article 312 introduces a presumption of paternity in favour of the child by providing that the mother's husband at the time of conception is presumed to be the father of the child. The articles relating to natural affiliation provide that illegitimate children have the same rights and duties as legitimate children and confer on the illegitimate child the apparent status of legitimate child. With regard to anonymous births, the law (art. 341 of the Civil Code) allows the child to bring an action to establish the mother's identity.

115. The provisions relating to adoption also advocate the best interests of the child, article 343 of the Civil Code providing that adoption can take place only if it offers advantages for the child adopted.

116. In matters of divorce, the courts (or the parents where applicable) are required to settle the right of custody of the children in the light of the children's best interests (art. 302 of the Civil Code).

117. Similarly, a minor may be placed in a foster home only if the best interests of the child so require, and the child may even be called upon to participate in the decisions concerning him once he has achieved a degree of discretion.

118. The application of this principle is analysed, inter alia, in chapters IV, section A, VI, VII and X (for the historical background see above, chapter I, section B).

C. Respect for the views of the child (art. 12)

119. Article 388-1 of the Civil Code embodied this right of the child in domestic legislation by providing that, in any proceedings concerning him, the child may, without prejudice to the provisions for his intervention or consent, be heard by the judge or the person appointed for that purpose, unless his age or degree of discretion do not so permit. The child may even insist on a court hearing, which may be refused only by means of a specially reasoned decision, unless his age or degree of discretion do not so permit.

120. The Protection of Young People Act of 10 August 1992 also provides for the possibility for the minor to be heard, where necessary even in chambers, without the need for the parents or legal guardians to be present.

121. At school, too, the child has the possibility of giving his views, of receiving a hearing, and of being helped with his problems if necessary.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

1. Name

(a) Biological parents

122. The Act of 13 April 1979 established the principle of equal rights for legitimate and illegitimate children, except for children born of incestuous relationships. Legitimate children automatically take their father's name, and illegitimate children take the name of the parent with respect to whom affiliation is first established. If affiliation is established simultaneously with respect to both parents, the child takes the father's name. However, it is possible to change the minor's name by opting for that of the other parent. This necessitates a joint declaration by both parents before the guardianship magistrate and, in the case of a change of name to that of the father with respect to whom affiliation has been established at a later stage, the consent of the minor if he or she is a child over 15 years of age. The child may receive the name of the natural mother's husband if natural affiliation has been established only with respect to the mother.

123. Legitimate affiliation. The mother's husband is the legitimate father of a child conceived in wedlock. Conception is presumed to have taken place between 180 and 300 days before birth. The legitimate father may disown the child if he can show that he cannot be the biological father (e.g. owing to absence or state of health, or following a blood test). To do so he must bring an action to

disclaim paternity before the circuit court within six months of the child's birth. Where the child is conceived before the marriage but born during the marriage, he or she is recognized as legitimate from the moment of conception, but the procedure for disclaiming paternity is simplified.

124. Any person may bring an action to disprove paternity, with the exception of the legitimate father - the person against whom the action is most usually brought. Such an action is possible only in cases where the child's apparent status and the birth certificate do not coincide, that is, where the birth certificate names a father other than the legitimate father.

125. The child may bring against the father and mother, and the parents may bring against the child, an action to claim the status of legitimate child, so as to establish that status. In order for such an action to be brought, the child must not already have another established legitimate or natural affiliation. In the event of an affiliation already being established in law, whether natural or legitimate, it must first be invalidated.

126. Legitimation. If a child's natural parents marry, they may legitimize their child. When the child's natural affiliation is established in law with respect to both parents, legitimation occurs automatically at the moment of marriage. It is also possible to recognize the child during the marriage ceremony before the registration officer. Lastly, legitimation is also possible after the marriage if the natural affiliation is recognized subsequently. Legitimized children are treated on an equal footing with legitimate children. However, it is easier to dispute their status: to do so it is simply necessary to dispute the natural affiliation.

127. Natural affiliation. A child that is not born of a marriage is considered illegitimate. Natural affiliation is established either by voluntary recognition or by a court declaration following an action to establish paternity or maternity.

128. The recognition may simply be recorded on the birth certificate. Natural affiliation to the mother is established by naming her on the birth certificate. For this the mother does not need personally to appear before the registration officer. For recognition of natural paternity, the father must personally appear before the registration officer, the notary or the judge.

129. Natural affiliation, like legitimate paternity, may be challenged by means of an action to contest recognition. The action may be brought by the child, by the person who has recognized the child, by the person claiming to be the true father, or by the mother, the heirs or the Public Prosecutor. An action to establish natural maternity serves a purpose only if the mother is not named on the birth certificate. Such an action may be brought by the child to prove that the person named by himself is indeed his biological mother. An action to establish natural paternity is more common. It may be brought only by the child and is directed either against the putative father or against his heirs. The evidence supporting the natural paternity must be provided by the child and the putative father must disprove it.

(b) Birth certificates

130. Births must be declared to the local registration officer within five days of the delivery. The day of the birth is not included in this time-limit (Act of 16 May 1975; Civil Code, art. 55). When a birth has not been declared within the statutory period, the registration officer may only record it pursuant to a court decision. If the place of birth is unknown, the court with jurisdiction will be the court of the applicant's domicile.

131. The child's birth is declared by the father or, failing that, by the doctors, surgeons, midwives, health officers or other persons who attended the delivery. When the mother has given birth away from her domicile, the child's birth is declared by the person in whose home the birth took place.

132. The birth certificate records the year, day, time and place of birth, the sex of the child and the forenames given to it; the forenames, names, occupations and domicile of the father and mother, and their places and dates of birth, where known. Whenever, pursuant to the domestic law of the child's country, the child does not automatically take the family name of its parent, the birth certificate also gives the child's family name. Where the father and mother of an illegitimate child, or one of the two, are not declared to the registration officer, no information on the matter is recorded in the register.

133. If the birth certificate issued relates to an illegitimate child, the registration officer must inform the guardianship magistrate of the fact within one month. In this case the person who has recognized the child has limited rights over "the child's property" (Civil Code, art. 392-2).

134. Where the child is declared to be born of unknown parents, the guardianship magistrate is informed of the fact by the registration officer within 24 hours. In this case it is usually stated that the child was born of an anonymous mother, or of "x". It is then for the guardianship magistrate to appoint a public administrator for the child, "to have the same powers over the minor's person and property as a statutory administrator under judicial control", including the right to consent to adoption (Civil Code, art. 433).

135. The subsequent adoption of a child of unknown parents is considerably facilitated by the inclusion in the Civil Code of a new provision allowing the issuance of a birth certificate not giving the names of the father and mother. As a general rule, such children are entrusted at birth to a foster-family wishing to adopt a child. However, for a period of three months the natural parents retain the possibility of making a declaration of recognition to the registration officer and requesting the return of the child.

B. Preservation of identity (art. 8)

136. Identity cards are issued by the municipal administration in which the holder resides. Minors under 15 years of age are not obliged to possess an identity card.

137. The State computerized information centre issues all individuals born in the Grand Duchy of Luxembourg with an identity number on the basis of the records of live births introduced by the decree of 31 December 1901 on the introduction of census records in order to ascertain population movements.

138. The State computerized information centre issues an identity number to immigrants to the Grand Duchy of Luxembourg on the basis of applications for foreign nationals' identity cards required pursuant to a Grand-Ducal Regulation dated 28 March 1972 concerning formalities to be complied with by foreigners temporarily residing in Luxembourg.

139. The State computerized information centre issues a new identity number to adopted persons on the basis of the register entry that takes the place of the adoptee's birth certificate.

140. A general directory has been established, containing the identity numbers of all the abovementioned categories of persons.

C. Freedom of expression (art. 13)

141. In Luxembourg law, freedom of expression is established in article 24 of the Constitution, which guarantees freedom of speech in all matters and freedom of the press, subject to the repression of offences committed in the exercise of those freedoms. In particular, article 24 prohibits censorship.

142. In order to promote freedom of expression among young people, practically all secondary schools currently publish a newspaper produced exclusively by the pupils and specifically intended to publicize young people's opinions.

D. Access to appropriate information (art. 17)

143. Today, along with the family and schools, the media constitute a further important factor in the socialization of children. In order to understand the contemporary world, children must acquire communication skills.

144. Children have free access to audio-visual resources (television, interactive games, etc.), and it is the job of adults to transmit to them the skills necessary in order for them to make responsible use of the media. Nonetheless, technology is advancing so rapidly in this sphere that adults are finding it hard to keep abreast of the new media. A general education in the media must form part of the school curriculum: training must be made available to teachers, parents, social workers, etc.

145. Thanks to its geographical location at the centre of Europe, the Grand Duchy of Luxembourg is very well served by television (Belgian, French, German, Italian, Portuguese and United States public and private channels). The availability will further increase in the coming years. There are no precise statistics on the time children spend watching television; however, according to some estimates, children of between 6 and 12 years of age watch television for an average of 30 hours a week.

146. Luxembourg has a few magazines specifically intended for children. A noteworthy example is Zack, published fortnightly by Editions St. Paul - a magazine for children of primary school age with a print run of 10,000. A few pages are devoted to articles by children on a wide variety of subjects. The Luxembourg Committee of the Red Cross is intending to publish a magazine for young people aged 13 to 15. The new publication intends to take the Convention on the Rights of the Child as its frame of reference. The Red Cross will also use this magazine to make young people aware of fundamental humanitarian

principles and the activities of the Red Cross worldwide. Lastly, mention should be made of the magazine Tam-Tam, published by the non-profit-making association Centre Information Jeunes. This has a print run of 5,000 and provides information on activities for young people in Luxembourg and in Europe as a whole.

147. The Supervision of Public Cinema Theatres and Cinema Performances Act of 13 June 1922 provides in its article 1 that minors of either sex under 17 years of age are prohibited from entering cinemas. The prohibition set forth in article 1 does not apply to cinemas when they exclusively screen films authorized by a committee (the Cinemas Supervision Committee). These performances are to be advertised to the public as entertainments for children and families.

148. Article 4 of the Act provides for criminal sanctions:

"The following will be punished with one to seven days' imprisonment or a fine of between 250 and 2,500 francs, or both:

1. Any person bringing a minor under 17 years of age into a cinema theatre within the meaning of article 1, or allowing him to enter or remain in such premises.

2. Any person screening or arranging for the screening of a film not authorized to be shown in premises advertised as organizing entertainments for children and families.

3. Any minor under 17 years of age contravening this law by attending a cinema performance not advertised as an entertainment for families and children.

The entrepreneur of the performance contravening the above provisions will be sentenced to the above fine in respect of each minor under 17 years of age found unlawfully in his premises, up to a maximum fine not exceeding 12,500 francs.

The operator of a cinema is liable to the penalty fixed by law if his employee has allowed minors under 17 years of age to enter and remain in the cinema during a performance not authorized as an entertainment for families and children.

The operator of a cinema or the employee issuing and controlling tickets is obliged to ensure that persons to be admitted to performances not authorized as entertainments for families and children are in fact over 17 years old."

149. Article 5 of a Ministerial Regulation of 28 November 1977 provides that the Cinemas Supervision Committee may recommend films of cultural and educational value to young people.

150. A proposal for a law on control of the production, distribution and sale of videocassettes provided in its article 2 for the prohibition of any videocassette constituting a violation of human dignity, inciting persons to commit acts of violence, of a pornographic nature or likely to contribute to the

development of drug addiction and racism. In consequence of this proposal, a draft law was prepared on supervision of public cinema theatres and performances and premises for the sale and hire of visual media. The explanatory memorandum to the draft law points out that "it is not disputed that the use of videocassettes [...] constitutes a serious threat to young people's social conduct. Furthermore, the content of some of these films constitutes a serious violation of human dignity, while being devoid of aesthetic or dramatic interest or social relevance. [...] It is also recommended that the proposed reform be used as an opportunity to update the Supervision of Public Cinema Theatres and Cinema Performances Act of 13 June 1922, to take account of the current situation. This matter also falls under the general heading of protection of young people."

E. Freedom of thought, conscience and religion (art. 14)

151. Article 19 of the Constitution guarantees freedom of religion and of public worship as well as freedom to express one's religious opinions, but permits the repression of offences committed in the exercise of such freedoms.

152. Article 20 of the Constitution provides that no one may be forced to take part in any way whatsoever in the acts and ceremonies of a religion or to observe its days of rest.

F. Freedom of association and of peaceful assembly (art. 15)

153. Freedom of association is recognized by the Constitution in its articles 24 and 25. For more information see chapter IX.

G. Protection of privacy (art. 16)

154. This individual freedom is proclaimed in articles 12 et seq. of the Luxembourg Constitution. Thus, article 12 provides that individual freedom shall be guaranteed.

155. The Protection of Privacy Act of 11 August 1982 provides that everyone shall have the right to respect for their privacy, and criminal penalties are provided for violating other people's personal privacy.

156. The Act of 2 October 1992 Amending the Act of 31 March 1979 Regulating the Use of Personal Data in Computer Systems also guarantees the right to protection of privacy.

157. Lastly, the Protection of Young People Act of 10 August 1992 explicitly guarantees minors the right to protection of their privacy by providing inter alia in its article 38 that it is forbidden to publish or disseminate in any way whatsoever the proceedings of the juvenile courts.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

158. Articles 438 and 473 of the Luxembourg Criminal Code provide that torture is an aggravating circumstance for certain crimes. Other provisions of the Criminal Code, relating to wilful striking and wounding, may already be invoked as a legal basis for the conviction of perpetrators of acts of torture.

159. However, with a view to strengthening Luxembourg's criminal provisions, a group of experts is in the process of preparing a preliminary draft law intended to supplement the Criminal Code in the light of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

V. PRINCIPLES OF ORGANIZATION OF SOCIAL SECURITY AND IMPLICATIONS FOR RIGHTS OF THE CHILD (Arts. 26 and 18, para. 3)

A. Basic philosophy

160. Luxembourg's social security is organized on the basis of a system of social insurance aimed at providing a replacement income for persons who, following the occurrence of a risk such as sickness, accident, old age, invalidity or unemployment, experience a loss of income. These replacement incomes are calculated on the basis of the wage or income earned before the occurrence of the risk. The granting of these benefits, and their amount, thus depend on the exercise of an occupational activity and payment of contributions. The benefits are financed by contributions paid by the insured person, the employer and the State.

161. Receipt of these benefits has been extended, in the form of derived rights, to members of the family of the principal insured person, that is, of the person insured by virtue of his occupational activity or by virtue of a replacement income, so as to guarantee, subject to certain conditions, social protection for the spouse, descendants, parents and other relatives financially dependent on the insured person.

162. However, Luxembourg's system of social protection does not only cover loss of occupational income, but also affords financial assistance to persons with dependent children and to dependent persons who cannot subsist without help from others. The legislature has also established a minimum resource threshold, known as the guaranteed minimum income (RMG), for persons living below the poverty line. These benefits are universal in nature, being granted without a requirement to have paid contributions or completed a qualifying period, the sole condition being residence in Luxembourg. The costs of family allowances, which come under the heading of social security, and of National Solidarity Fund benefits, which are social assistance benefits, are borne by national solidarity and are thus financed from public funds.

B. Rights of the child and social security

163. The rights of the child in social security matters are safeguarded directly or indirectly by taking account, when calculating or assigning benefits, of:

(a) The financial burden of supporting or educating one or more children;

(b) The time devoted to educating one or more children;

(c) The effects of maternity on the parents' occupation and resources;

(d) The loss of the main source of income following the death of the father, mother or main contributor to the child's maintenance;

(e) For minors with the status of wage-earners, loss of income following an industrial accident or unemployment;

(f) The child's physical state and the additional costs that may result therefrom.

These criteria give rise either to derived rights or to personal rights for the children, and also to supplementary or increased benefits for persons maintaining and educating the children.

164. The principal derived rights are to be found in the areas of:

(a) Sickness insurance: health care protection (co-insurance);

(b) Accident insurance: survivor's annuities for orphans (orphan's annuity);

(c) Pension insurance: survivor's pensions for orphans (orphan's pensions).

165. Personal entitlements for children exist in the following fields:

(a) Sickness insurance: compulsory cover for children under 18 years of age and crippled children;

(b) Accident insurance: coverage by accident insurance of certain activities undertaken by young people;

(c) Family benefits: entitlement to family allowance and to the special supplementary allowance for one or more disabled children;

(d) Unemployment: entitlement for workers aged 16 and over to receive full unemployment benefit, subject to the special provisions for the young unemployed;

(e) Social assistance: entitlement to the special allowance for severely disabled persons.

166. Proportional increases of the basic benefits granted to the principal insured person exist in the areas of accident insurance and unemployment insurance, and there is a flat rate increase of the basic benefit in the area of social assistance, inter alia, when granting a guaranteed minimum income (RMG) to persons whose income falls below a certain threshold and who are educating and maintaining one or more children.

167. The consequences of maternity, such as loss of income, costs of confinement and health protection for pregnant women, mothers and their children are covered by the following benefits:

(a) A maternity cash benefit (replacement benefit);

(b) Defrayal of costs of confinement (sickness insurance benefit);

(c) Birth allowance (family benefit);

(d) Maternity allowance (family benefit).

168. Supplementary social security benefits are paid to persons with dependent children to offset the loss of income or reduce the costs of educating one or more children:

(a) Education allowance;

(b) "Back-to-school" allowance.

169. Moreover, the fact that a person is educating one or more children may lead to a relaxation of the conditions governing eligibility for certain social security benefits:

(a) Entitlement to the guaranteed minimum income;

(b) Account taken of periods of educating children in entitlement to and calculation of pensions in matters of pension insurance.

1. Derived rights

(a) Sickness insurance

170. Article 7 of the Social Insurance Code: protection of members of the family. Compulsory and voluntary insurance also extend to legitimate, legitimized, illegitimate and adopted children of the principal insured person, giving entitlement to family allowances; as well as to children given a home on a long-term basis in the insured person's household and whom the insured person is educating and maintaining, provided that the insured person or his or her spouse is a recipient of family allowances.

171. Article 18 of the Social Insurance Code and article 8 of the Statutes of the Union of Sickness Funds: maintenance of the right to benefits. In the event of cessation of coverage, entitlement to health care benefits is maintained for the current month and for the three succeeding months, provided that the person protected has been covered for a continuous period of six months immediately prior to cessation of coverage. Entitlement is also maintained:

(a) In respect of illnesses being treated at the time of cessation of coverage, for a further three months;

(b) For a further six months in the case of a recipient of a full accident annuity, regardless of the duration of the period of coverage preceding the granting of the annuity.

These provisions also apply to the principal insured person's children, but in a subsidiary manner and only when they do not enjoy statutory coverage for the same risks during the same period.

172. Article 17 of the Social Insurance Code: health care benefits. Children insured for these risks have the same entitlement as adults to health care and dental care, paramedical treatment, laboratory analyses and examinations, orthodontic, orthopaedic and orthotic appliances and epitheses, pharmaceutical products and specialities, accessory and adjuvant curative methods, maintenance in the event of hospitalization, and treatments; as well as to reimbursement of travel and transportation expenses. Sickness insurance covers the costs of travel within the country and subsistence expenses in the case of authorized treatment abroad of a person accompanying a minor.

173. Article 9 of the Statutes of the Union of Sickness Funds: insurance cards. A strictly personal insurance card is issued to each person covered, and thus also to children. This card must be presented to any provider of care or supplier when requesting any service or supplies covered by sickness insurance.

(b) Accident insurance

174. Articles 102 and 104 of the Social Insurance Code: rights of surviving children. In the event of the death of the beneficiary of an accident annuity, the surviving children are granted an annuity of 21.4 per cent of the average annual wage used to determine the deceased person's annuity, for each legitimate child up to 18 years of age. If the child is prevented from earning his livelihood as a result of his scientific or technical preparations for his future occupation, the accident annuity is granted until he or she reaches 27 years of age. Orphan's annuities and pensions are paid provisionally with no age restriction to descendants who as a result of physical or mental disabilities are unable to earn their livelihood, provided that the disability has been detected before they reach 18 years of age. The treatment extended to legitimate children is also extended to legitimized, adopted and illegitimate children, and to all orphans one of whose parents is dead, provided that the insured person or beneficiary of pensions has maintained and educated the children during the six months preceding his death and that they are not entitled to an orphan's pension in respect of their parents. If the deceased person leaves grandchildren, until the age of 18 they will each receive an annual pension of 21.4 per cent of the average annual remuneration, provided that the deceased person was previously obliged to support them.

(c) Pension insurance

175. Articles 199, 206, 218, 224 and 225 of the Social Insurance Code: orphan's pension. After the death of either the father or the mother, entitlement to a survivor's pension is extended to the legitimate children of the beneficiary of a pension or of an insured person who at the time of death has completed a 12-month qualifying period of compulsory insurance in the three years preceding death. This qualifying period is not a requirement in the event of the insured person's death following an accident occurring during coverage. The treatment extended to legitimate children is also extended to legitimized, adopted and illegitimate children, and to all orphans one of whose parents is dead, provided that the insured person or beneficiary of a pension has maintained and educated the children during the ten months preceding his death and that they are not entitled to an orphan's pension in respect of their parents.

176. The orphan's pension is granted until the beneficiary reaches 18 years of age. It is granted or maintained until a maximum age of 27 if the orphan is prevented from earning his livelihood as a result of his scientific or technical preparations for his future occupation. Furthermore, it is paid provisionally with no age restriction to descendants who as a result of physical or mental disabilities are unable to earn their livelihood, provided that the disability has been detected before they reach 18 years of age. Except in the case of students, the orphan's pension ceases to be paid in the month following the beneficiary's marriage.

177. For orphans both of whose parents are dead, the annual survivor's pension is doubled. Where there is an entitlement to an orphan's pension in respect of both the father and the mother, only the higher of the two pensions is paid, having regard to the provision referred to in the previous sentence.

178. Orphan's pensions are adjusted to the cost of living and adapted to the standard of living.

2. Individual rights

(a) Sickness insurance

179. Article 1 of the Social Insurance Code: compulsory insurance. Those compulsorily insured against the risk of sickness include apprentices undergoing vocational training in Luxembourg and in receipt of an apprenticeship allowance, where contributions are deducted from the allowance. Moreover, children under 18 years of age residing in Luxembourg who are not otherwise insured, and who are not covered as members of the principal insured person's family, are compulsorily insured against the risk of sickness. The State bears the cost of the sickness insurance contributions.

(b) Accident insurance

180. Articles 90, 93, 97 and 99 of the Social Insurance Code: compulsory insurance. Apprentices are compulsorily insured against accidents, even if they are employed without remuneration. Compulsory accident insurance has also been extended to cover students engaged in technical or vocational courses or involved in intra- or extra-mural activities at primary, secondary and tertiary levels of education, and also to guardianship or protective measures imposed on minors by the juvenile courts. In the event of an accident, persons or children thereby covered are entitled to benefits in kind, such as medical treatment and pharmaceutical products, and to an annuity while incapacity for work persists. For persons receiving no wage and those whose income falls below the minimum social wage, the annuity is calculated on the basis of the minimum social wage applicable on the date of the accident.

181. Article 6 of the Act of 22 July 1982: employment of pupils and students during school holidays. Pupils and students employed during the school holidays are covered against risks of accident.

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance, rights and duties of parents, joint responsibility of parents, guardianship of minors (arts. 5 and 18)

1. Definition and basis of parental authority*

182. Parental authority is an institution of public policy imposed on parents, children and third parties. It implies a set of rights and duties assigned to parents in order to protect the person of the child and administer his property. Parental authority is a joint function of the spouses, and it is in principle exercised by one of the parents when they are separated or divorced, etc., or, in the event of placement of a minor by a court and in the absence of any other decision, by the placement institution or the foster family. Parental authority is an obligation which can be derived from the provisions of article 203 of the Civil Code: "The spouses contract jointly, by the sole fact of their marriage, the obligation to feed, maintain and bring up their children". This obligation has been extended to all children, including illegitimate children.

2. Purpose of parental authority

183. Parental authority has a dual purpose:

(a) To protect the person of the child with respect to his security, health and morals. To this end, persons possessing parental authority have a right and a duty of guardianship, supervision and education (Civil Code, art. 372 et seq.);

(b) Similarly, if a child is incapacitated he must be represented in most proceedings concerning his property. Thus the administration and use of the property of minor children are vested in the father and mother, who exercise the legal administration thereof jointly (Civil Code, art. 382 et seq.).

Parental obligations derive on the one hand from the bonds of filiation and on the other hand from the obligations created by the marriage.

3. The reality

184. The status of a child in relation to his parents is not uniform. Parental authority depends on the personal status of a minor in relation to his parents and to their matrimonial status. Although in principle natural children have the same rights as legitimate children, there nonetheless exists a number of legal situations in which discrimination against natural children persists (see art. 2 of the Convention):

(a) A child born of adultery may not be brought up in the conjugal home except with the consent of the spouse of the parent with respect to whom his filiation has been established. The Act of 20 December 1993 approving the Convention on the Rights of the Child contains the following reservation in

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* National replies to the questionnaire "Family policies, rights of the child, parental responsibilities", Conference of European Ministers responsible for Family Affairs, 23rd session, Strasbourg, 1993.

article 2: "The Government of Luxembourg considers that it is in the interests of families and children to retain the provision of article 334-6 of the Civil Code, which reads: if at the time of conception, the father or mother was bound in marriage to another person, the natural child may be raised in the conjugal home only with the consent of the spouse of his parent";

(b) Children born of incest are not entitled to have their filiation established. The Government has entered the following reservation: "The Government declares that the present Convention does not require modification of the legal status of children born to parents between whom marriage is absolutely prohibited, such status being warranted by the interest of the child, as provided under article 3 of the Convention";

(c) Parental authority over children born out of wedlock is exercised by the mother (Civil Code, art. 380). Article 3 of the Act approving the Convention reads: "The Civil Code shall be amended as follows: (art. 380): parental authority over a natural child shall be exercised by the parent who has voluntarily acknowledged the child, if he has been acknowledged by only one of his parents. If both parents have acknowledged the child, parental authority shall be exercised by the mother. However, parental authority may be exercised jointly by both parents if they make a joint declaration to that effect before a guardianship magistrate. In all cases the guardianship magistrate may, at the request of the father, the mother or the Public Prosecutor's Office, alter the terms of the exercise of parental authority over a natural child. He may decide that it shall be exercised either by one of the parents or jointly by both of them; in such cases he shall designate the parent with whom the child shall normally live. The guardianship magistrate may grant rights of visit, accommodation and supervision to the parent who does not possess parental authority".

185. Lastly, the Council of State proposed amending article 1527 of the Civil Code, which is considered to be discriminatory with respect to the successor's rights of natural children. According to this article, the advantages which a spouse may enjoy under the provisions of a contractual community of property are not regarded as gifts and may not therefore be reduced except when there are children born of an earlier marriage. The Council of State suggested extending the protection provided by this article to natural children. Paragraph 3 of article 1527 of the Civil Code has been amended accordingly.

4. Guardianship of minors (Civil Code, arts. 389-475)

(a) General observations

186. In the event of disagreement between a father and mother exercising legal administration jointly, the decision shall be taken by the guardianship magistrate at the request of either of them, the other having been heard or duly summoned.

187. The administration shall be placed in the hands of the guardianship magistrate:

(a) When one of the parents is deceased;

(b) When either the father or the mother loses exercise of parental authority or is temporarily deprived of it. There are three cases of this kind:

(i) If either parent is unable to make his or her wishes known owing to incapacity, absence, removal or any other reason;

(ii) If either parent has been sentenced by a court for failure to fulfil his or her maintenance obligation towards the child, provided that he or she has not recommenced discharging the obligation for a period of at least six months;

(iii) If a final order has been made against him or her with respect to those of his or her rights which have been withdrawn;

(c) When the parents are divorced or living apart;

(d) When the minor is a natural child, regardless of whether he has been acknowledged by only one or by both of his parents.

188. In the case of legal administration under judicial supervision, the administrator must obtain authorization from the guardianship magistrate with respect to acts which a guardian may carry out only with the authorization of a family council (see below).

(b) Guardianship arrangements

189. The guardianship arrangements are the responsibility of the following persons or bodies:

(i) The guardianship magistrate

190. The guardianship magistrate is the juvenile court judge within whose jurisdiction the minor has his domicile. He exercises general supervision over legal administrations and guardianships within his jurisdiction. He may summon legal administrators, guardians and other persons or bodies exercising guardianship, request clarification from them, address comments to them, and issue them with instructions.

(ii) The guardian

191. The individual right to choose a guardian, whether a relative or not, belongs only to the father or mother dying last, provided that he or she has retained to the date of death the exercise of legal administration or guardianship. This right may be exercised only in one of the following ways:

(a) By a deed expressing a last wish;

(b) By a statement made either before a justice of the peace, attended by his clerk, or before a notary public.

192. The guardian chosen by the father or mother is not required to accept the guardianship if he is not in the category of persons who may be entrusted with the guardianship by the family council in the absence of a specific parental choice.

193. If a guardian has not been chosen by the parent who dies last, the guardianship of a legitimate child passes to his most closely related ascendant. If there are several ascendants with an equally close relationship, the family council appoints one of them to be the guardian. If there is no testamentary guardian or ascendant guardian, or if the person appointed to this position is no longer performing his functions, the minor is provided with a guardian by the family council.

194. The council is convened by the guardianship magistrate, either of his own accord or at the request of blood relatives or relatives by marriage of the father or mother, creditors or other interested parties, or of the Public Prosecutor's Office. Any person may report to the magistrate circumstances which may give rise to the appointment of a guardian.

195. A guardian is appointed, save in exceptional circumstances, for the duration of the guardianship.

(iii) The family council

196. The family council has four to six members, including a surrogate guardian but not the guardian or the guardianship magistrate. The magistrate appoints them, subject to changes in the situation of the parties, for the duration of the guardianship. The members of the family council are chosen from among the blood relatives or relatives by marriage of the minor's father and mother, taking into account all the circumstances of the case: closeness of the relationship, place of residence, and age and aptitudes of the persons concerned. Particular consideration is given to the habitual relations which the father and mother had with their various blood relatives or relatives by marriage, and of the interest which they have shown or appear to be able to show in the person of the child. The guardianship magistrate may also call upon friends, neighbours or other persons who seem to him to be able to take an interest in the child to become members of the family council.

197. The family council may discuss business only if at least half of its members are present or represented. If that condition is not met, the magistrate may in an emergency take a decision himself. Members of the family council who are not present or validly represented without an excuse incur a fine of between 100 and 2,000 francs.

198. The council is chaired by the guardianship magistrate, who has a casting vote in the event of a tied vote. The guardian must attend the meeting but does not vote. A minor who has reached the age of 16 years may, if the magistrate sees fit, attend the meeting in a consultative capacity. In no circumstances does his consent to an act relieve the guardian and the other guardianship bodies of their responsibilities.

199. The deliberations of the family council are void if vitiated by bad faith or fraud or if conducted in an excessively bureaucratic manner.

(iv) Other guardianship bodies

200. The family council may, in the light of the aptitudes of the persons concerned and the nature of the estate to be administered, decide that the guardianship shall be divided between a guardian of the person and a guardian of

the property, or that the management of certain items of property shall be entrusted to an assistant guardian. Guardians appointed in this way are independent and not responsible to each other in their respective functions.

201. Guardianship is a personal responsibility and may not be entrusted in any respect to the guardian's spouse.

202. In every guardianship there is a surrogate guardian appointed by the family council from among its members. He supervises the administration of the guardianship and represents the minor when his interests clash with those of his guardian. If any deficiency in the guardian's administration comes to light, the surrogate guardian must immediately inform the guardianship magistrate.

(c) Guardianship responsibilities

203. Guardianship, being the protection due to a child, is a public responsibility.

204. If a guardianship remains vacant, the guardianship magistrate transfers it to the State and appoints a public administrator for the child, selected preferably from among the members of a charitable society or institution or a public or private educational establishment. A public administrator has the same powers over the person and property of the minor as a legal administrator acting under judicial supervision.

205. The function of surrogate guardian is not a public responsibility.

206. The various responsibilities of guardianship may be fulfilled by any person, without distinction as to sex, but subject to considerations of incapacity, exclusion or destitution, and subject to challenge.

(d) Functioning of guardianships

207. A distinction must be drawn between supervision of the person of a minor and administration of his property. Supervision of the person is the responsibility of the guardianship bodies, the guardian and the family council. The guardian takes care of the minor's person, i.e. he has inter alia the right of supervision of a minor living in his home; he is also responsible for the minor's education. The family council may give instructions to the guardian with respect to the minor's vocational training and religious instruction. It determines the ward's budget and is competent to issue various authorizations, for example consent to marriage in the absence of an ascendant. The guardian is responsible for administering the minor's property as a good father should and for any damages resulting from his poor administration. The guardian's powers depend on the importance of the acts which he has to perform.

(e) Termination of guardianship

208. A guardianship ceases when the minor reaches the age of 18 years, when he has been emancipated, or when he dies. When a guardianship ends, the guardian has three months in which to account for his administration. In principle, the accounting is made to the minor on his majority, and he may not approve the account until one month has elapsed since it was submitted to him with the supporting documents.

B. Transfers and services

1. Guaranteed minimum income (RMG)

209. The right to a guaranteed minimum income (RMG) and the right of access to the national social services were created by the Act of 26 July 1986. The purpose of the RMG is to guarantee all citizens a decent life by providing them with the minimum means of subsistence. The Act thus creates the right of citizens to have recourse to the social services if their income falls below the guaranteed threshold. The RMG is paid from the National Solidarity Fund created by the Act of 30 July 1960, as amended by the Act of 16 June 1989.

210. Article 3.3 of the Guaranteed Minimum Income Act confirms that in the determination of the RMG account is taken of each child entitled to family allowances who is living in the household. The purpose of the social protection of children is to guarantee them adequate conditions of upbringing. To this end articles 2 (b) and 3 (b) define the conditions triggering entitlement to the RMG, taking account of any children living in the household.

211. Accordingly, a person bringing up a child for whom he receives family allowances may claim the RMG without having to satisfy the legal conditions, provided that the child is aged under 15 years or suffers a disability. The fact of being placed temporarily outside the home of the father and mother does not prevent a child from being regarded as a member of the household (art. 5, para. 2).

2. Minimum social wage

212. The rate of the minimum social wage is determined by the age of the recipient, his family responsibilities and qualifications. For unskilled workers the rate depends on age (60 per cent at age 15; 70 per cent at 16; 80 per cent at 17; and 100 per cent from age 18). Workers possessing a specified level of qualification receive a minimum wage 20 per cent higher than the standard. The amount of the minimum social wage for both unskilled and skilled workers depends on their family responsibilities.

3. Youth unemployment

213. The provisions of the general comprehensive unemployment scheme apply to any involuntarily unemployed worker resident in Luxembourg and aged at least 16 years who is not receiving a full accident pension, who is fit and available for work and registered as a job-seeker, and who satisfies the required training conditions.

214. Cover against is provided for young people who find themselves without work on completion of their basic full-time training, provided that they are domiciled in Luxembourg at the end of the training, that they register as job-seekers at a State employment office within 12 months following completion of their training, and that they are not aged over 21 years on the date of registration.

215. The status of unemployed young person is accorded to adolescents who have completed a specific course of study or who decide not to continue their studies on a training course or who have already held a job without satisfying the

training condition, and to young trainees and apprentices who find themselves without work on completion of their training, either owing to termination of the training or apprenticeship contract by the employer or by common accord, or following the interruption of their current training. Unemployed young people may receive the full unemployment benefit after being registered as a job-seekers for 39 weeks, which is reduced to 26 weeks for young people having more than nine years of schooling or who have completed a vocational training course for job-seekers registered with an employment office or a course of on-the-job training.

216. The full unemployment benefit amounts to 70 per cent of the minimum social wage. For young persons aged 16 or 17 who cannot prove that they have passed a final apprenticeship examination the benefit amounts to 40 per cent of the minimum social wage. For unemployed persons receiving tax relief by reason of having at least one dependent child, the benefit rate of 80 per cent of the previous gross reference wage is increased to 85 per cent.

4. Social assistance. Welfare Domicile Act of 28 May 1897

217. Luxembourg's legislation imposes on communes the duty of providing assistance to the needy. Article 1 of the Welfare Domicile Act imposes on commune administrations the obligation to furnish the necessary resources to the charity offices, today known as social offices. Pursuant both to article 1 of the Welfare Domicile Act and article 83 of the Communes Act, commune councils are required to include the necessary appropriations in their expenditure budgets.

218. Distinctions are made between the welfare domicile of minors, the welfare domicile at the time of majority or emancipation, and the welfare domicile after majority or emancipation.

(a) Domicile of minors

219. During his minority a non-emancipated legitimate or legitimized child has the same welfare domicile as his father or, if his father is dead, the same domicile as his mother (art. 4, para. 1). A natural child, even if acknowledged by his father, has the same welfare domicile as his mother (art. 4, para. 2). If a legitimate or legitimized child is an orphan, he retains during his minority the welfare domicile of the parent who died last. Similarly, a natural child whose mother is deceased retains the welfare domicile of his mother at the time of her death. Minor children entrusted to a divorced woman have the same welfare domicile as their mother (art. 8, para. 2). Foundlings, children born of unknown parents, abandoned children and orphans whose welfare domicile cannot be determined have this domicile in the commune in the territory of which they were found (art. 5). Minor children of a widow have the same welfare domicile as their mother, which is the same as that of the deceased father and husband. If the widow acquires a new welfare domicile, she acquires it equally for her minor children. The law does not distinguish between the case in which such change of welfare domicile arises from the marriage of the mother and the other cases covered by the Act (art. 4).

(b) Domicile at the time of majority or emancipation

220. Luxembourgers born before 18 May 1954 reached their majority at the age of 21 years. Pursuant to the Civil Majority Act of 18 February 1975, which entered into force on 18 May 1975, the age of majority is 18 years. Thus all Luxembourgers born between 18 May 1954 and 18 May 1957 reached the age of majority on 18 May 1975. Pursuant to the same Act, emancipation is no longer possible by marriage.

221. Legitimate and legitimized Luxembourgers have their welfare domicile, from the time of emancipation or majority, in the commune in which their father was living at the time of their birth (art. 2, para. 1). If the father was dead at that time or if the person concerned is a natural child, he has his welfare domicile in the commune in which his mother was living at that time (art. 2, para. 2). If the father or mother, although of Luxembourg nationality, was not living in the Grand Duchy at the time of the child's birth or if their place of residence at that time cannot be discovered, the place where the child was born is his welfare domicile (art. 2, para. 3). If he was born abroad of a Luxembourg father who at the time of the birth was not living in the Grand Duchy, he has his welfare domicile in the place in which his parents retained their welfare domicile (art. 2, para. 4). If during the child's minority the father or mother acquires pursuant to articles 6 and 9 a welfare domicile other than the one determined by the foregoing rules, when the person concerned reaches the age of majority or is emancipated he retains the welfare domicile of his parents at the time of his majority or emancipation.

(c) Welfare domicile acquired after majority or emancipation

222. A welfare domicile determined in accordance with the foregoing rules is transferred to the commune in which the welfare recipient last lived for four consecutive years since the time of his majority or emancipation, although brief absences are not taken into account (art. 6). Brief absences are absences which do not total more than six months. For the calculation of the four-year period, periods during which the parents lived in the same commune during the minority of the person concerned are added to his periods of residence in the commune since his majority or emancipation (art. 9). However, periods of residence by his parents prior to his majority or emancipation must satisfy the conditions which they would themselves have to satisfy in order to acquire a new welfare domicile.

5. Housing benefits

223. The purpose of the amended Housing Benefit Act of 25 February 1979 is inter alia to encourage persons with low incomes and families with dependent children to acquire real estate.

224. The individual benefits include the mortgage guarantee scheme and the home-buyers savings scheme. If a borrower cannot provide the lending institution with adequate security of his own, the State may guarantee the repayment of the principal, interest and ancillary costs of mortgages granted to physical persons for the purchase, construction, rebuilding or improvement of a dwelling used as the principal and permanent residence of the borrower and his or her spouse and of their ascendants and descendants living in the same household (art. 3).

225. Article 11 of this Act authorizes the State to encourage home ownership by granting savings, construction and purchase subsidies on a scale determined by the recipients' income, assets and family circumstances.

226. The recipients' family circumstances and therefore the number of their children also come into play in determining the amount of a home-improvement subsidy (art. 12) and of the special adaptation subsidies for new dwellings or existing dwellings of physically disabled persons (art. 13).

227. The amount of interest subsidies, which are defined in article 14, also depend on the family and income circumstances and are designed to reduce the interest burden in the light of the borrowers' capacity to repay.

228. The various capital grants and the interest subsidies are also related to the floor area of the dwelling. The official usable living area can be increased by 16 m^2 from the birth of the third child up to a maximum of 136 m^2 for an apartment and 156 m^2 for a single-family house.

229. In order to take into account the additional costs born by families with dependent children and in view of the existence of several benefit schemes based on the number of children (interest subsidies granted in connexion with individual housing benefits, preferential interest rates charged by the Private Employees' Pension Fund and the Civil Service), the general preferential interest rate scheme is designed to reduce the monthly costs of families with dependent children. These preferential interest rates are part of a family policy and are not subject to any condition of income level or size of dwelling (art. 14 bis).

6. Family allowances

230. Family allowances are financial subsidies for households with dependent children. Since the arrival of one or more children constitutes an additional burden for the parents, they are assisted by the provision of a large number of family allowances. This financial assistance, paid by the National Family Allowance Fund (CNPF), is designed partially to offset the additional family costs due to the arrival of children.

(a) Young couples' loan

231. The young couples' loan is a housing loan on preferential terms which a young couple can take out on marriage with a view to facilitating the setting-up of their first home. If a couple produce or adopt a child, they may in addition receive a flat-rate reimbursement.

(b) Maternity grant

232. The maternity grant is a flat-rate payment for women carrying on a non-waged activity and for housewives. It is paid in two instalments during the period corresponding to the period of legal maternity leave, the first instalment during the eight weeks preceding confinement, and the second during the eight weeks following confinement.

233. In the case of the adoption of a child who has not yet started the first year of school, only the second instalment is paid - during the eight weeks following the registration of the adoption order in the Civil Registry.

(c) Cash maternity benefit

234. During the period of maternity cover of a working woman, i.e. six months before confinement, and during the standard postnatal leave, i.e. six weeks following confinement, as well as during adoption leave, a woman covered by compulsory insurance for at least six months during the year preceding the maternity or adoption leave is entitled to a cash maternity benefit equal to 100 per cent of her latest remuneration. When the confinement takes place after the date forecast on the medical certificate, the entitlement to the cash maternity benefit is extended to the actual date of confinement.

235. The additional six weeks' leave for breastfeeding gives rise to benefits only if a medical certificate is issued at least 15 days before the expiry of the regular postnatal leave.

(d) Lump-sum childbirth benefit

236. During confinement insured women enjoy the services of a midwife, medical care, stay in a maternity hospital or clinic, pharmaceutical supplies and food products for unweaned infants. These benefits are covered by a lump sum paid on presentation of the birth certificate of the child, or of the children in the event of a multiple birth.

(e) Childbirth allowance

237. The Act of 20 June 1977 introduced the systematic medical supervision of pregnant women and young children and amended the existing legislation on childbirth allowances. In fact, the medical supervision of pregnant women has been made compulsory in the sense that the award of the childbirth allowance is now subject to the condition that the women in question should present themselves and their children for the medical checks envisaged for the purpose of such supervision. The purpose of this legislation is thus not only to provide financial support to parents but also to ensure protection of the health of women during pregnancy and childbirth and the health of young children.

238. The childbirth allowance is designed to provide greater safety for pregnant women and their babies by means of continual medical supervision. It is paid in three instalments:

(a) In order to receive the antenatal allowance, a pregnant woman must present herself during pregnancy for at least five medical checks and one dental check and she must have her legal domicile in Luxembourg at the time of the last scheduled medical check;

(b) To receive the childbirth allowance itself, a mother must present herself for a postnatal examination to check whether her health has been affected by the pregnancy and she must have her legal domicile in Luxembourg at the time of the child's birth;

(c) To receive the postnatal allowance, the parent or any other person having custody of the child must present it for two postnatal checks and four subsequent checks up to the age of two years. The postnatal allowance is paid provided that the child is brought up in Luxembourg without interruption from birth.

239. The antenatal instalment is paid to the mother-to-be. Failing that, it is paid after the birth to the father, provided that he takes charge of the child's upbringing and maintenance.

240. The childbirth allowance itself and the postnatal instalment are paid to the mother if the parents live together. In other cases the childbirth allowance is paid, up to the limit of the costs of the confinement, to the person or the public or private institution bearing such costs, and the balance is paid to the parent or person responsible for the child's upbringing and maintenance at the time when payment of the benefit is due.

241. The postnatal instalment is paid to the person bearing the costs of maintaining the child at the time when payment of the benefit is due.

(f) Family allowances

242. The details of family allowances and the purposes which the Legislature has sought to vest in them have been changed by the various laws enacted since they were introduced.

243. Regarded initially as social assistance for persons with dependent children, then as an income supplement, and then, since their extension to all children, as a means of redistributing national income in the interest of children on the basis of the principle of social solidarity, this legislation now embodies the individual right of children to family allowances. The following arguments are advanced in support of this concept. Today, family allowances can no longer be regarded as an income subsidy for persons responsible for children; instead they have their own purpose, especially since the standardization of the amount of the benefits for all children regardless of the employment status of their parents. In fact, since this standardization family allowances have depended solely on the existence of children and have been designed for the benefit of children. In order to provide sounder guarantees that the allowances intended for children are actually used in their interest, the Legislature has finally established the individual right of children to family allowances.

244. The monthly family allowances are paid in respect of all children who meet certain requirements:

(a) For children born and raised in the Grand Duchy the family allowances are paid inclusively from the month of birth to the month in which the child reaches the age of 18 years. They are continued up to the age of 27 years while the person is following a course of education or vocational training. They are paid without age limit for persons afflicted by a disability before the age of 18 years who cannot provide for their own needs;

(b) For children born abroad and raised in the Grand Duchy the family allowances are paid:

(i) From the month following arrival in the Grand Duchy if the children are nationals of a country member of the European Union;

(ii) After six months following arrival in the Grand Duchy if the children are nationals of some other country;

(c) For children raised abroad the family allowances are paid if the person invested with parental authority in respect of the children carries on a professional activity in the Grand Duchy.

245. The family allowances are paid to the parents if the child is raised in their joint household. In other cases they are paid to the parent or the physical or moral person who has effective custody of the child. The National Family Benefits Fund makes its payment decisions in the interest of the child. The family allowances are paid to emancipated minor children and to children who have reached the age of majority and retain entitlement to the allowances, if they so request.

246. Age supplements are added to the family allowances. They are granted to all children receiving family allowances from the month in which they reach the ages of six and 12 years.

(g) Education allowance

247. The education allowance was introduced in order to facilitate free parental choice with respect to their children's education. This monthly allowance is paid to couples who have:

(a) One or two children, with one aged under two years;

(b) Three or more children, with one aged under four years;

(c) One child aged under four years in respect of whom the special supplementary benefit for disabled children has been granted.

248. The award of this allowance is nevertheless subject to certain conditions:

(a) One of the parents must be without a professional activity;

(b) If both parents work or if a parent bringing up a child alone works:

(i) The allowance is paid in full if the gross income from social security entitlements does not exceed a ceiling of three times the minimum social wage for a household with one child, four times for a household with two children, or five times for a household of three or more children;

(ii) The allowance is paid in half the amount if one of the parents carries on a part-time professional activity;

(iii) The allowance is paid if both parents carry on a part-time professional activity.

(h) "Back-to-school" allowance

249. An allowance is paid at the start of the school year in order to cover the attendant costs. This annual benefit is paid in August for the start of the school year for all children who are entitled to the family allowance, from the first year of primary school. The benefit is thus paid for all children from the age of six years, and the amount depends on the age of the child and the family circumstances.

(i) Special supplementary benefit for disabled children

250. The special additional benefit for disabled children is a monthly allowance granted on top of the family allowance in order to cover the specific costs incurred by parents owing to their child's disability. Any child aged under 18 years afflicted by one or more conditions causing a permanent incapacity or impairment equal to at least 50 per cent of the physical or mental capacity of a "normal" child of the same age is entitled to this supplementary benefit. It is paid from the month in which the disability arises and continues beyond the age of 18 years for all persons receiving the family allowance as disabled persons and not in receipt of any benefits from the National Solidarity Fund or a social security body, except for the allowance for severely handicapped persons.

7. Counting of time spent bringing up children

251. In order to enable parents to attend better to their children's upbringing, the right to count periods spent bringing up children in the calculation of pension entitlement was introduced by the Act of 27 July 1987 on old-age, disability and survivors' pension insurance. This Act constituted a reform of the contributory pension insurance scheme and introduced a single scheme applicable to all socio-vocational groups.

252. At the request of the insured person, a period of 24 months is taken into consideration as a period of compulsory insurance for one of the parents devoting himself or herself to the upbringing of a legitimate, legitimized, natural or adopted child aged under four years at the time of adoption, provided that the person concerned has been insured for 12 of the 36 months preceding the month of the child's birth or adoption. This period begins from the month following the child's birth or adoption. The period of 24 months is extended to 48 months if, at the time of the child's birth or adoption, the person concerned is raising in his or her home at least two other legitimate, legitimized, natural or adopted children, or if the child is afflicted by one or more conditions causing a permanent incapacity or impairment equal to at least 50 per cent of the physical or mental capacity of a "normal" child of the same age.

253. The periods during which one of the parents has brought up one or more children aged at least six years are taken into account as periods of insurance but only to complete the period (40 years) required for early receipt of the old-age pension at age 57 or 60 years or for the minimum pension, as well as for receipt of flat-rate pension increases.

C. Family reunification (art. 10)

254. The Luxembourg authorities subscribe to the consensus expressed in article 10 of the Convention to the effect that the Convention reaffirms the existing national and international guarantees. In the light of current international legislation, the question of family reunification is regulated in accordance with the principles stated below, it being understood that the practice followed by the competent authorities has always been to deal with matters of family reunification, as far as possible, in a positive spirit and with humanity and diligence.

255. Nationals of the European Union and persons from a country which has joined the European Economic Area have the right to be joined by their spouse and descendants aged under 21 years or dependants for whom they are responsible. This right derives in particular from EEC Regulation 1612/68. Ascendants have the right to settle in Luxembourg if they are dependants of a national of the European Union or of his or her spouse.

256. At the request of a non-Community resident, a residence permit may be issued to his or her spouse or minor children (aged under 18 years) if the non-Community resident requesting the family reunification has a stable job supported by a work permit (issued for at least four years) and has a dwelling suitable for housing the family, this point being verified by the competent services prior to the issue of the residence permit. These conditions pertaining to material resources and accommodation are conceived as being in the clear interest both of the person requesting the family reunification and of the members of the family pre-qualified to join him or her.

257. The amended Luxembourg Nationality Act of 22 February 1968 contains provisions setting out less onerous procedures for acquisition of Luxembourg nationality if the applicant is a child born abroad to a foreign parent and has completed the whole of his compulsory schooling in Luxembourg. The simplified procedure of option is then allowed (art. 19, para. 4). In addition, a child aged at least 18 years acquires Luxembourg nationality if one of his natural or adoptive parents exercising custody over him voluntarily acquires or recovers Luxembourg nationality (art. 2, para. 3). These provisions are based on the principles of family reunification.

258. According to article 215 of the Civil Code, the spouses are required to live together. Article 213 provides that in the interests of the family the spouses shall endeavour to provide it with moral and material guidance, ensure its maintenance and raise the children and prepare them for settlement. In principle, the spouses and children live together in the family home, which is specially protected by the provisions of articles 215, paragraph 2, 1427 and 1429 of the Civil Code. If the spouses disagree as to the common residence, the decision is taken by a judge, who determines the residence after having heard the arguments of both spouses. Nevertheless, the court may for legitimate reasons - in particular reasons connected with employment - authorize the spouses to live apart. In such cases it also rules on the residence of the children in the light of their best interests.

259. Even if the rule is not stated expressly in the national legislation, the provision contained in the second sentence of paragraph 1 of article 10 of the Convention to the effect that States Parties shall ensure that the submission of

a request for family reunification shall entail no adverse consequences for the applicant is fully respected. Even if the application is rejected, its submission does not entail of itself any adverse consequence for the applicant in Luxembourg.

260. If the parents live in different States, the right of the child to maintain, save in exceptional circumstances, personal relations and regular direct contacts with both his parents and the reciprocal rights of the parents with respect to their child also constitute legitimate grounds for the issue of the necessary visas or the residence permits required by the competent Luxembourg authorities. In fact, the national legislation regulates this matter in accordance with, inter alia, article 12 of the International Covenant on Civil and Political Rights.

D. Collection of maintenance (art. 27, para. 4)

261. In the Grand Duchy this matter is regulated by the Act of 26 July 1980 on the payment and recovery of maintenance by the National Solidarity Fund and by the Grand-Ducal Regulation of 2 December 1983 setting out the modalities for the application of the Act. The Act provides that any maintenance due to a spouse, ascendant or descendant shall be paid, on request, to a claimant who satisfies the following conditions:

(a) The claimant has been legally domiciled in the Grand Duchy for five years;

(b) The claimant is entitled to a maintenance payment under a court order enforceable in the Grand Duchy;

(c) The claimant is in an economically difficult situation;

(d) The claimant has tried to collect the maintenance by a means of enforcement under private law. The application is also admissible when recourse to means of enforcement seems destined to fail or when the person responsible for paying the maintenance lives abroad.

262. In April 1996 the National Solidarity Fund made maintenance payments to 155 recipients, including 12 payments to individuals alone and 143 to individuals and/or their children.

E. Educational childcare services (art. 18, para. 3)

263. According to a survey carried out in Luxembourg, 20 per cent of children aged under seven years are entrusted by their parents to "child-minders" from outside the home. The informal network of mutual assistance among family members and/or neighbours remains in first place and according to this survey accounts for more than 60 per cent of the children "minded" outside the home.

264. A discussion follows below of:

(a) Day centres and nurseries;

(b) Services offering care by child-minders;

(c) Boarding or socio-familial schools.

Readers are also referred to the section on "family placement".

1. Day centres and nurseries

265. At the beginning of 1996 there were 101 day centres with a capacity of 3,468 places and 59 nurseries with a capacity of 1,186 places offering their services to families living in Luxembourg. Day centres occupy an increasingly important place in the network of formal and informal educational childcare services. Over the past 10 years big efforts have been made to develop the day centres and to improve their education facilities. For example, between 1986 and 1996 State appropriations to finance the balance of the running costs of private day centres operating under agreements with the Government increased by 330 per cent. The officials responsible for day centres in the Ministry of the Family estimate that some 3,500 children aged between two months and 12 years regularly attended a day centre, i.e. almost 5.5 per cent of all children in these age groups. The statistics for the agreement centres alone show a relative decline in the rate of cover for children aged over four years, i.e. for children attending school.

266. It should be remembered that in Luxembourg initiatives for socio-familial projects come mainly from various private bodies which receive substantial assistance from the State and local authorities in the form of cash subsidies and provision of buildings and technical infrastructure. In relation to current overheads (staffing and maintenance costs) attention must be drawn to the overwhelming financial support provided by the State. Within the Government the Ministry of the Family is the intermediary for a large part of the social, socio-educational and socio-familial services, including day centres, nurseries, boarding schools and reception centres and the counselling, guidance and assistance services for children and families.

267. By promoting private initiatives successive Governments have not just been respecting a long-standing tradition, for it is considered that in a democratic and pluralist society private organizations offer, as a substitute environment, the best guarantees of the effectiveness of psycho-social or socio-educational projects and are regarded as taking a dynamic, flexible, independent and respectful approach.

268. At present the large-scale subsidy of private socio-familial and socio-educational institutions has no other legal basis than the budget legislation adopted each year. The submission of a bill on this topic by the Ministries of the Family and Education will make it possible not only to define the framework for cooperation between the public authorities and NGOs but will also establish minimum standards for the daily operation of the services and the organization of the proposed benefits.

269. In most situations at present, State subsidies are awarded under a cooperation contract (agreement), which spells out the reciprocal rights and obligations of the Ministry and the organization concerned. The cooperation is organized around a "management committee", on which are represented, amongst others, the managers, the head teachers, the staff and the Ministry. This arrangement allows the public bodies to participate more directly in the

organization of the services provided under the agreement and in the control of their quality.

270. At the beginning of 1996 40 per cent of day centres, with a capacity of 32 per cent of total available places, were managed by private bodies enjoying in principle two sources of public support:

(a) Financial contributions to operating costs under an agreement concluded each year with the Ministry of the Family;

(b) Provision of buildings and technical infrastructure.

271. This generous support (over 30,000 Luxembourg francs per month and per place) enables the institutions concerned to offer families a top-quality childcare service:

(a) Improved staffing ratio (280 posts for 1,093 places, i.e. 1:4);

(b) Recruitment of staff qualified in socio-educational subjects;

(c) Determination of the financial contribution of parents in the light of socio-familial criteria;

(d) Priority admission for children from families experiencing difficulties of social integration;

(e) Organization of an environment which is top-quality in all respects;

(f) Excellent technical equipment with respect both to teaching and to safety (equipment to prevent falls, rapid- evacuation facilities, fire-detection equipment);

(g) ... .

272. The operators of day centres are aware that their functions extend far beyond the scope of "child-minding". They are called upon to support and supplement the educational functions of parents and they take part in particular in the work of socialization. In view of the increasing numbers of only-children (44 per cent of the children enrolled in the agreement centres), attendance at a centre and mixing with a group of children often provide the first experience of competition, comradeship, confrontation among equals, and reciprocal loyalty. In the case of children of foreign origin the day centres play an important role of social and cultural integration. They also provide such children with an opportunity of making their first contact with the Luxembourg language. For many Luxembourg and foreign children they constitute the first experience of learning to live in an open, pluralist and multicultural society. The admission of children from difficult family backgrounds makes a particularly valuable contribution to their social and school integration. It may be noted in passing that almost 28 per cent of children placed in day centres come from single-parent families (in Luxembourg such families accounted for 17 per cent of households with children in 1991). Officials emphasize the socio-cultural role of day centres in many localities and particularly in the poorer quarters of Luxembourg City. In general, attention is drawn to the many points of contact

and cooperation between the teaching teams and the parents. In many situations they result in fairly informal day-care, advisory and teaching-support services.

273. With the financial support of the Ministry of the Family, the Association of Day Centres has established a placement service to handle centrally applications to institutions located in Luxembourg City. In addition, this service offers parents general information about the agreement day centres, their opening hours, the scale of fees payable by parents, etc. It is interesting to note that as at 31 December 1995 this service had 139 unsatisfied applications: 71 for children aged between two months and two years, 39 for children aged between two and four, and 29 for children aged over four.

274. For years the officials responsible for the day-centre sector have been stressing the need for continuous top-quality staff training. The Association of Day Centres has established a joint service whose work is subsidized by the Ministry of the Family. In 1995 this service organized 22 courses and seminars (194 registrations) and two public conferences (almost 200 participants). These meetings discussed very diverse topics such as hyperactive children, artistic education, prevention of drug addiction, academic backwardness, speech therapy, yoga, rhythmic education, the educational relationship, group dynamics, and the reception and counselling of parents.

275. For many years the agreement day centres have been working on the social integration of children requiring additional attention either because they are afflicted by a physical or mental problem or because they are retarded in their development. As at 1 November 1995 these day centres were caring for 14 children requiring additional attention. They have funds for the temporary recruitment of additional staff and for the services of outside consultants. In principle all the agreement centres can accept children requiring additional attention since they are assigned places not available to other children. They can thus be accepted without delay even if there is a long waiting list. The results achieved over the years by the teaching teams of the agreement centres show clearly that if the treatment of children requiring additional attention enjoys the collaboration of all the parties concerned, i.e. parents, doctors and specialized re-education services, the centres can furnish valuable assistance both to the child and to the parents.

276. Day centres and nurseries: statistical summary (1995):

	Services		Places	
	No.	%	No.	%
Day centres				
Agreement	40	40	1 093	32
Non-agreement	61	60	2 375	68
- run by communes	11	11	385	11
- run by religious communities	3	3	171	5
- individuals, commercial companies	40	40	1 016	29
- available only to company staff	7	7	803	23
Total	101	100	3 468	100

	Services		Places	
	No.	%	No.	%
Nurseries	10	17	121	10
Agreement	49	83	1 065	90
Non-agreement				
Total	59	100	1 186	100

2. Services providing child-minders

277. Three "family placement" services operating under agreements with the Ministry of the Family (see also section F) provide a link between parents and individuals (child-minders, babysitters, Tagesmütter) providing child-minding services during the daytime. As at the end of December 1995 303 children were being looked after in this way by private individuals for periods ranging from four to 12 hours a day. In the light of the survey cited at the beginning of chapter V.E, it must be admitted that at least as many children are looked after by persons not supervised by the specialized services.

278. Use of a child-minder has the advantage of greater flexibility of scheduling and the far from negligible benefit of being able occasionally to arrange for the child to spend the night away from home without any other formalities. Some parents prefer this modality for reasons of geographical proximity or because they know the child-minder well. It is accepted that one person should not look after more than five children at one time. However, there are no regulations specifying the conditions for the provision of this service.

279. The waiting lists of the organizations offering this kind of service are growing longer. Their managers give priority to poorer families which do not have the financial means of organizing this service themselves.

280. The services select and supervise the child-minders, paying them an allowance for overhead costs of 290 francs a day and remuneration of 390 francs a day. The parents contribute to the cost of the service in an amount dependent on their disposable family income. The State meets the rest of the services' costs.

3. Academic and socio-familial boarding schools

281. Luxembourg currently has 12 boarding schools, three of which are attached to public schools and nine managed by private associations. These schools have a total capacity of 750 boarding places; the private boarding schools cater for more than 800 pupils on a semi-boarding basis. Many Luxembourg students (more than 1,000) in the post-primary grades are enrolled in foreign schools (mainly Belgian); most of them attend boarding schools located close to the Grand Duchy.

282. Over recent decades the reasons for placing a child in a boarding school have changed considerably. The geographical distance from the family home plays an increasingly less important role. The improvement of the public transport network and the decentralization of schools enable most traditional boarders to return more easily to their family homes. In some boarding schools attached to

institutions offering specialized training (farming, hotel management) the geographical distance is still the main reason.

283. For many "traditional" boarders, enrolment in a particular boarding school used apparently to be due to respect for a family tradition regarded as beneficial. These children were placed in the boarding school which their father or mother had attended. Today this reason applies hardly at all.

284. A traditional reason which still carries weight is the academic guidance provided for boarders. Unfavourable material conditions in the family home, the scant time available for parental attention or the overwhelming influence of the parents' occupation on family life (shopkeepers, self-employed craftsmen, farmers) have always prompted parents to regard boarding as an advantageous solution. Even today they still believe that a boarding school, from the material and academic standpoints, is better equipped than the family home to provide the best academic guidance.

285. For an ever increasing number of boarders, attendance at a boarding school is becoming a means of helping a family through a difficult period when for various reasons the parents seem "unable to cope" with their responsibilities in the upbringing of their children. Of course, this trend must be seen in the more global context of the evolution of family life: a divorce rate of almost 30 per cent; an increase in the number of single-parent families (17 per cent of families with children); and greater numbers of children and young people exhibiting disturbed or psychologically aberrant behaviour (alcohol, drugs, violence, psychological and social lack of motivation).

286. Attention must be drawn to the following trends:

(a) Luxembourg's boarding schools are having to abandon the vocation of training intellectual and/or religious elites;

(b) They are having to bring their educational programmes into line with the principles of social work and psychological counselling;

(c) They are receiving increasing numbers of applications for the primary grades (age six to 12 years).

287. Since 1989 the Ministry of the Family has been participating in the financial management of private socio-familial boarding schools. Thanks to public aid these schools have been able to initiate reform processes affecting their institutional, educational and technical aspects. Within the framework of comprehensive educational programmes and in collaboration with the boarders' families, the socio-familial boarding schools provide for the needs of their pupils and students in terms of accommodation, meals, study supervision and support, and leisure activities. The educational work is the responsibility of socio-pedagogic teams which include teachers offering vocational training in the social sciences, teaching, and social and educational work.

288. The reforms are focused on the following areas:

(a) Reorganization and re-equipment of premises. The buildings and technical infrastructure must be adapted and modernized in order to comply with prescribed or normal standards of safety, hygiene and comfort. The system of

living in small "family" units entails suitable accommodation arrangements, including in particular common rooms, separate bathroom facilities and a kitchenette for each unit;

(b) Teaching under the group system. Formerly, the inmates of a boarding school constituted a single big group, often with more than 150 members. They were attended by a small team of persons who had no specific vocational training. The boarding schools - in Luxembourg just as in neighbouring countries - had large dormitories, refectories and study halls. Nowadays most of the boarding schools have opted first to reduce the number of boarders admitted, then to organize their daily lives on the basis of small "family" units of 12 to 15 pupils. Within the institution these units have some independence: their own accommodation, collective participation in specific tasks, arrangements for dialogue and communication, and communal organization of leisure time;

(c) Psycho-social guidance. The boarding schools have realized that they have an important mission of social integration and socio-psychological guidance. They have agreed to tackle head-on the problems of drugs, alcohol, violence and lack of motivation. They have realized that the organization of creative leisure activities, training in personal independence, and psychological and affective guidance often constitute the priority tasks. They have been prompted to intensify their efforts both in their relations with parents and in their cooperation with the school system;

(d) Supplementary training. A boarding school is defined as an educational environment which intervenes at a crucial time in a young person's psychological development. The boarding schools are discovering specific educational, social, cultural and psychological missions which they intend to carry out in addition to seeking to obtain their purely academic objectives: to encourage independence at the level of practical organization (preparation of meals, upkeep of clothing), an atmosphere of dialogue and discussion (group living), and the creative and responsible management of leisure time.

289. In the same context it must be stressed that there is a variety of modes of boarding. Most boarding schools offer various arrangements for part-time attendance: during the lunch period, supervision of homework, or full-time attendance during the daytime (from 7 a.m. to 7 p.m.). Part-time attendance has enabled some of the traditional boarding schools to acquire their first experience of co-education. From this standpoint the boarding schools lag behind the public schools and day-care and other centres for children and young people.

290. The willingness of boarding schools to expand the range of their work and diversify their modes of attendance qualifies them to participate actively in the development of new education programmes for the supervision of pupils outside of school hours. Such supervision is becoming increasingly important and takes many forms: meals at lunchtime; snacks during the school day from 7 a.m. to 7 p.m.; psychological and social guidance and counselling (an increasing number of pupils come from broken homes and/or problem families); equipment of recreation and leisure areas (lessons not taken by a teacher or interrupted); provision of study rooms; supervised study.

291. School organization and family lifestyles increasingly require the introduction of flexible modes of the "all-day" type. It must be stressed that most of Luxembourg's school facilities lack appropriate supervision structures.

Given this deficiency, many school managers find it difficult to respond to the fact that many pupils choose to spend their time between classes in establishments of sometimes dubious reputation (consumption of alcohol and/or drugs).

292. In many cases the close collaboration between public schools and private socio-familial boarding schools makes it possible to establish suitable supervision arrangements. This entails a readiness on the part of private schools to cooperate closely with the public schools, agreement on the introduction of complementary flexible modes to cater for the whole school community, the elaboration of socio-pedagogic concepts which, if based on well-defined philosophical or religious beliefs, lead to differentiated and consensual socio-educational programmes.

293. At present the State is contributing more than 60 per cent of the operating costs of the private boarding schools. The cooperation contracts signed annually by the Ministry of the Family and the relevant management bodies establish for each boarding school a management committee made up of two representatives of the board of governors, one representative of the Ministry, one representative of the parents of boarders appointed by the parents, the head teacher of the school, and a representative of the staff appointed by the staff. The committee meets regularly to monitor the institution's progress, consider administrative and teaching problems, and propose appropriate solutions.

294. In view of the quantitative impact of boarding schools run by Catholic associations (all the private ones), the Government has decided to create a "Luxembourg Public Boarding School"; the legislation on the establishment and equipment of this school was approved by the Chamber of Deputies on 8 December 1992. This educational project can be summarized in terms of the following principles: neutrality with respect to religion or belief; co-education; importance of socio-educational work and study support; diversification of modes of attendance; and admission of pupils taking secondary and secondary technical courses. The administrative management of the Public Boarding School will be undertaken by the Red Cross of Luxembourg.

F. Children deprived of their family environment (art. 20)

1. Separation from parents

295. According to information provided by the Ministry of the Family, as at 31 December 1995 765 children and adolescents were being accommodated full-time away from their homes in various institutions (reception centres) or in foster families. The following table shows the distribution of these placements by type.

Type of placement	Number of places available	Number of children
Public reception centres (State children's homes)	77	63
Private reception centres	339	317
Short-stay "family problem" homes (special units of reception centres)	40	37
State socio-educational centres	-	61
Prison	-	n.a.
Specialized institutions abroad	-	39
Foster families	-	248
Total		765

296. In order to understand these figures correctly the following points must be borne in mind:

(a) Only a small number of young people who have reached the age of majority stay on in reception centres to continue with their socio-vocational integration measures;

(b) The table does not include statistics on admission to the supplementary modes: academic and/or socio-familial boarding school, day centre, day foster home, educational supervision at home, etc.

297. It is difficult to compare the situations of the various countries members of the European Union:

(a) The types of institution covered by the statistics vary (day centres, boarding schools, foster homes, therapeutic institutions, detention centres, juvenile prisons...;

(b) The targeted population is not identical (age, reason for placement, nationality, placement body...).

298. It is nevertheless true that in Luxembourg the 765 children and adolescents placed represent a rate of 0.83 per cent of the minor age groups, which have a total population of 92,147, whereas at the international level reference is frequently made to the "norm" of 1 per cent (see Corbillon, Hellinckx and Colton, Suppléance familiale en Europe, Vigneux, 1993).

299. The following topics are discussed below:

(a) Luxembourg's reception centres;

(b) Fostering;

(c) Socio-familial assistance services.

The State socio-educational centres are examined in section X.C.1, and adoptions in section VI.G.

(a) Reception centres (homes for children and young people)

300. A reception centre is an institution for the full-time accommodation for a specific period of children and adolescents suffering psychological or social difficulties. The task of the reception centres (homes, foyers) is to ensure the harmonious development of their charges and to expose them to gradual procedures of socialization and socio-vocational integration.

301. Most of Luxembourg's reception centres are run by private bodies (non-profit associations or foundations). Private children's homes provide 84 per cent of the available places and their services are subsidized under agreements with the Ministry of the Family. Such agreements guarantee their managers a large contribution of public funds and confer on the public authorities the rights of inspection and cooperation. In 1995 the State had agreements with 12 private organizations managing 14 centres or institutions. The private centres had in their various units (including the short-stay family-problem homes) a total capacity of 397 beds. In addition there are 77 places available in the State children's homes (excluding the State socio-educational centres). About 20 per cent of the regular expenditure of the reception centres is covered by their own revenue (family allowances, contributions from communes, parents and the inmates themselves). The balance is made up by the State. For 1996 the State budget contained appropriations of 555.6 million francs (agreement centres) and 354.7 million francs (State children's homes).

302. Over recent decades the number of children placed in the reception centres has declined sharply. A network of social, socio-educational and socio-familial services offer various arrangements for consultation, care or guidance which can with advantage take the place of the always painful measure of placement in an institution. However, at present the number of applications exceeds the number of places available, a situation which means that all the parties concerned must undergo detailed scrutiny of applications and complex placement procedures. In 1995, for example, the average duration of the procedures for admission to an agreement centre was 78.8 days. In this same context attention must be drawn to the reluctance of centre managers to accept badly-prepared placements. Some of the applications submitted as "emergency placements" result in alternative measures (social and educational counselling of the family, admission of the children to a day centre, financial support, etc.) once the applications have been examined closely. With regard to most of the placements it is important to select the right institution or accommodation unit in order to give the young inmates the best possible chances of integration.

303. The central handling and processing of applications to reception centres is the responsibility of the National Placements Arbitration Commission (CNAP), a body established by the Association of Reception Centres and the Ministry of the Family. In 1995 CNAP received 162 applications and was able to place 83 children in private or public centres. It should be noted that 63 applications were withdrawn because other solutions had been found (the child remained with his family, was directed towards other care facilities or was placed in a foster home). In principle, CNAP is not responsible for deciding on the appropriateness of a placement measure. In the case of measures taken pursuant to the Protection of Young People Act of 10 August 1992, such decisions may be taken only by a juvenile court judge. It must be stressed that almost 70 per cent of applications to private and public centres come from the courts, even though this figure does not represent the total number of placement orders.

304. At present there are no laws or regulations obliging public or private reception centres to carry out measures ordered by the courts. In principle, they are free to accept or reject a placement. The managers of the centres regard this prerogative as an important guarantee of the quality of the services which they are required to provide, but it often causes tensions in their relations with the courts. The State socio-educational centres are the only institutions obliged by law to carry out placement measures ordered by the courts. In addition, the courts have free access to a number of places in the special units of the reception centres - the short-stay family-problem homes.

305. At present there are no laws or regulations establishing the placement procedures or the modalities for review of placements made outside the framework of the Protection of Young People Act. The bill on promotion of the rights of the child and the social protection of children submitted to the Chamber of Deputies in early 1996 by the Minister for the Family is designed to correct this situation by imposing a fixed system which respects the rights of the child, protects the interests of families, and guarantees the quality of the placements. It is to be hoped that the introduction of procedures for the assessment of applications and systematic review of the measures taken will help to reduce the number of applications made and placements ordered by the courts. At present the courts are too often required to "fill" by means of measures of a legal nature a "gap" of a socio-pedagogic nature.

306. Over recent decades the average duration of placements in reception centres has declined. For example, 58 per cent of the 92 children and young people who left the centres in 1995 had spent less than three years there. The placement authorities and the centres' managers and teachers generally view placement as more of an ad hoc measure to facilitate a child's reintegration in his original environment. Almost 50 per cent of the children admitted to reception centres come from short-stay family-problem homes. These homes are special units of the reception centres: they work as flexible groups, open 24 hours a day, and are intended in particular for short-term placements (less than three months). They were opened five years ago in several agreement centres as a response to particular needs: "family-problem" placements (parents seriously ill, hospitalization, urgent trips abroad, etc.; "emergency" placements (family crisis, suspicion of maltreatment or abuse...); and "counselling" placements (to enable professionals to assess and clarify the situation of the child and his family and prepare proposals for more permanent measures).

307. The socio-pedagogic work carried out in the short-stay family-problem homes requires particular flexibility on the part of the teaching teams. Constantly confronted with placement situations which cannot be foreseen and for which preparations cannot be made, the teachers are required to devise creative short-term responses and to involve the largest possible number of potential partners (parents, teachers, various professionals). Intensive work with the family often resolves a crisis. For example, some of the inmates can quickly return home provided that they and/or their family agree to a measure of social supervision. The experience of recent years shows that admission to a short-stay home constitutes a favourable move even if it is impossible for the child to return quickly to his family; in fact, a stay in the home prepares the child for transfer to a reception centre under more favourable conditions both for himself and for his parents and the family unit's teachers; such stays can thus make a big contribution to reducing the risks of failure of the placement measure.

308. It should be noted that the quality and nature of the contacts between the reception centres and the families often depend on the nature of the placement. The more willingly the placement is accepted by the family, the greater the chances of involving the parents in the education and integration programmes; their cooperation is an indispensable precondition for the active search for a permanent arrangement allowing the child to return to his family.

309. Over the past 30 years the reception centres have undergone extensive restructuring and modernization. It will be useful to highlight the main principles of this development and its socio-pedagogic achievements.

(i) Professionalism

310. The personnel of the religious congregations has gradually been replaced by lay workers with socio-pedagogic qualifications acquired in Luxembourg or abroad (psychologists, educationalists, educational therapists, occupational therapists, graduate teachers, teachers, teacher-instructors). Most of these workers are trained in Luxembourg at the Institute of Educational and Social Studies (former Institute for Teacher and Assistant-Teacher Training). This training is a continuation of the preparatory courses in the traditional secondary or vocational subjects and lasts for three years. Today the staff of the centres enjoys State-regulated working conditions.

(ii) Decentralization

311. The big traditional institutions have gradually undergone geographical and institutional decentralization. They have moved from huge complexes of buildings (convents, former chateaux or barracks) to big single-family houses in residential districts. The institutional aspect of the decentralization is even more significant: the establishment of "family" units operating more or less independently. Each unit has eight to 10 members, a permanent staff (four or five teachers and a housekeeper), its own accommodation (living room, office, kitchen, bathroom facilities, bedrooms) and control of a specific budget. This geographical and institutional decentralization has led to additional staffing and equipment costs, but it has benefited the social integration activities and helped to create a more "family" atmosphere in the units and to increase the sense of responsibility of the staff and the inmates.

(iii) Socio-pedagogic orientation

312. The treatment of the inmates has taken on a socio-pedagogic orientation as part of a shift from protection, supervision and care to a teaching approach based on personal independence, psycho-affective development, and social integration and participation. Given a smaller number of charges, the teaching team has to set itself specific objectives and develop individual socio-educational and psycho-therapeutic plans. The closure of the internal schools and the admission of the inmates to local schools, the transfer of the units to residential districts, and the enrolment of the children and young people in local clubs have facilitated the work of social integration and reintegration. This socio-pedagogic approach has led the centres to continue to work with children who have reached the age of majority and/or left the institution's residential facilities. They have developed a diversified set of initiatives for supervised accommodation, introduction to the world of work, and psycho-social

counselling outside the institution, in order to support the efforts of their former inmates and protect or stabilize their affective and social integrity.

(iv) Diversification of assistance modalities

313. The seriousness and diversity of the problems which the reception centres have to tackle have led them to play an innovative role in social, socio-educational and social-familial projects in Luxembourg. Some of these new initiatives have been incorporated in the structures of the reception centres themselves, (for example, measures of socio-vocational integration), some of them have resulted in independent projects organized by the managers (for example, establishment of day centres), while others have been taken over by new ad hoc bodies (for example, assistance with accommodation).

314. The managers of the reception centres have established within their existing facilities counselling services for former inmates and/or their families. The reasons for and the purposes of these initiatives are to facilitate access to suitable accommodation, counter the risks of job instability, offer complementary psycho-affective training, help to manage administrative and financial problems, and prevent any slippage towards situations of emotional disturbance, social exclusion or delinquency.

315. The centres have contributed to the development of extramural forms of socio-vocational integration. They have established what amount to protected workshops within their own facilities or as separate units. These workshops provide additional training, retraining and on-the-job training, as well as handicrafts and manufacturing activities. The centres have encouraged the creation of alternative forms of placement and custody: therapeutic units, short-stay family-problem homes, foster homes, day homes, academic or socio-familial boarding schools and day centres. They have requested the establishment of various information, counselling, guidance and assistance services.

316. One of the consequences of this process has been a change in the clientele of the reception centres:

(a) As a result of the various assistance and supervision measures now available, children are entering the centres at an older age and often remain there longer;

(b) The children and young people admitted to the centres are the ones experiencing the most serious psycho-social problems; thus the work of the centres is becoming even more sensitive and demanding.

(v) Psycho-pedagogic supervision and training

317. The difficulties experienced by the inmates and the educational problems emphasized by the personnel have prompted the managers of the reception centres to create psycho-pedagogic supervision and training services. Psychologists, educationalists, social workers and other specialists are available to help the teaching teams and their pupils. Either employed on the permanent staff of the institution or working on a sessional basis, they are responsible for producing the medical-social and psycho-pedagogic profiles of the boarders, collaborating in the design of therapeutic and educational programmes, offering individual and collective supervision sessions, participating in on-the-job training

initiatives, organizing treatment for the inmates, and participating in counselling work on the outside.

(vi) The "agreement": Luxembourg's model of public participation

318. For a very long time the disabled, the disadvantaged and the socially excluded had been neglected, forgotten and marginalized. The liberal governments towards the end of the last century at last took the initiative of separating orphans from the insane in the shelters, and the disabled from criminals; they decided to establish three specialized institutes - for the blind, deaf-mutes and the mentally disabled; they entrusted the management of these institutes to a religious congregation, the Sisters of St. Elizabeth, which was displaying extraordinary energy at that time. The various organizations created by the religious congregations and managed on their sole responsibility constituted for almost a century the main pillar of services for disadvantaged children. Children suffering mental disabilities, personality disorders, sensory or physical disabilities, or socio-familial problems were thus abandoned to public charity. The School Acts of 1912 and 1963 opted in fact for easy solutions allowing the exclusion, without too much formality, of persons suffering serious physical infirmity, psychological and mental disabilities, and social integration problems.

319. The great change in thinking took place in the 1960s. The initiative came from brave and energetic pioneers recruited from among the parents concerned, teachers, magistrates and a few other professionals. The general public at last became aware of the problem. The establishment of additional and better-equipped facilities posed the question of funding and public participation. The Act of 14 March 1973 on specialised education institutes and services established a remarkable framework for action, innovation and coordination in the national education system. With regard to supervision and accommodation, the public initiatives were based on the philosophy of close collaboration with private organizations.

320. The serious financial problems confronting the managers of the homes required public participation above and beyond the usual policy of subsidies. The instrument of the "agreement" (convention) was conceived by Ministers Madelaine Frieden and Benny Berg and used by their successors Jean Spautz and Fernand Boden to consolidate and encourage the reception-centre initiatives and to support and promote a diversified system of custody, counselling, consultation and training facilities. These agreements constitute a truly Luxembourg model of cooperation between the private sector and the public authorities; it rests on a few basic principles: the initiative for and the execution of the project are the responsibility of private organizations; the State participates in the funding of the initiative, thus facilitating the recruitment of personnel in sufficient numbers and with suitable vocational qualifications; and the contracting parties and the staff representatives cooperate closely in joint bodies such as the management committees.

321. The first agreements were signed in 1975. The new instrument led to the initiation in the reception centres of the broad and fruitful process of reform and innovation described above. It has not so far been possible to provide a legal framework for the relations between the State and the private-law organizations engaged in social, family and therapeutic work. The agreements are based only on the annual budget legislation.

322. The breakdown of the regular expenditure of the agreement centres shows for 1995 a total board and lodging cost of 635 million francs, corresponding to an actual expenditure of 156,000 francs per bed and by month. The staffing costs of the 332 agreement posts account for more than 85 per cent of this expenditure. The State contribution amounts to almost 82 per cent of the centres' recorded income.

(b) Foster homes

323. The 248 children mentioned in section VI.F as being placed in foster homes as at 31 December 1995 refers to the children listed by the three foster-home services which have concluded agreements with the Ministry of the Family in accordance with the model described above. The total number of children cared for by families which are not their own is not known. Except for very young children (aged under two years) there is no declaration requirement. And even this requirement dating from 1907 is little known or respected. The 248 children were aged between 12 months and 18 years. They came from precarious family situations. There were many different reasons for this situation: illness, drugs or alcohol, neglect, instability or even irregular working hours (see on this topic section VI.E with regard to the flexibility of the services which also provide day care). These placements were requested by the children themselves, their parents, social workers or juvenile court judges.

324. The services undertake to check whether there may be other and preferable solutions to the problem giving rise to an application for placement, or whether placement in a foster family is counter-indicated. It is important in particular to check whether the parents can accept that another family rather than a group of teachers should support them or even replace them in their child-raising functions. From another angle, the services have to consider whether the child can tolerate more exclusive relations with a foster family. As far as possible the services prevent any interruption of contact between the child and his family, even going as far as arranging supervised meetings in their own premises.

325. More than half the children are placed by a juvenile court judge. In such cases parental authority is transferred to the foster family. In some cases the parents have chosen to request delegation of parental authority. Otherwise the modalities of collaboration in connection with a voluntary placement may be determined only by a placement agreement.

326. The duration of a foster-home placement can vary from a few months to more than 18 years (the first placements made through these services date back to 1979). There is an annual turnover of one fifth of the placements as children join and leave their foster homes. Some eight to 10 placements a year have to be interrupted and continued in another family or in a reception centre.

327. The foster families are chosen by the staff of the services on the basis of the experience which the families have acquired with their own children. The recruitment of foster families is a delicate task. In the absence of any official regulations laying down specific criteria, the staff of the services base their decisions on interviews with candidates and visits to their homes in order to check their qualities of understanding and respect, their ability to organize the continuous care of a child, and their readiness to accept external socio-pedagogic supervision. The same workers who select the foster families are

responsible for preparing them for their task, supporting them throughout the placement period, and evaluating with all the parties concerned the appropriateness of this mode of placement. Once a child has been placed in a foster home, the staff of the services - social workers, educationalists and psychologists - maintain close contacts with the foster family. The foster families' experience with their own children is not always sufficient for coping with problems such as maltreatment or sexual abuse, competition with the natural parents, and the sometimes chaotic situations in the family of origin. Every staff member is responsible for monitoring about 30 placements on average and may have recourse to a specialized consultation service for foster families. These families need to have contact with other persons caring for children. They have taken advantage of the establishment of the consultation service to create mutual-help and training groups.

328. In 1994 some foster families created an association for protection of the interests of foster families and child-minders (the non-profit association "Hëllef fir Flegefamilien an Dagesmammen"). This association is an important partner of the public bodies and the professionals of the placement services. It has the following objectives, amongst others: to improve the status of child-minders, provide them with suitable training, offer facilities for exchange of information and meetings between foster families, and make innovations and increase the means of action and forms of supervision.

329. It should be noted that the foster-family services act as intermediaries for both full-time and day-time placement (see above). There is no need to change the foster family or the service if the full-time placement includes access to a day centre.

330. Foster families are compensated for their costs and work. For the maintenance of one child they receive 11,000 francs a month in addition to family allowances of at least 3,000 francs. Tax advantages of about 5,000 francs a month can also be granted. For their work they receive a monthly payment of about 17,000 francs per child. This payment is not taxable. The foster families sign an employment contract specifying the conditions of the custody of the child. This form of contract seems the most suitable for the type of relations which the foster families maintain with the service and the child's parents. The conditions of membership of the social security system are the same as for independent white-collar workers. The services are responsible for collecting any financial contribution from the child's family or the commune authorities. The State contribution covers more than 70 per cent of the cost of compensating the families, as well as the services' staffing and overhead costs. The staff of the services remains at the disposition of the parents for dealing with any difficulties which they are encountering in organizing their lives, especially when it comes to preparing for the child's return.

(c) Socio-familial assistance services

331. Specific services have been established over the past 20 years to help former inmates of the reception centres, their families, and persons or families threatened by social marginalization. These services are managed by private organizations and receive public subsidies under agreements.

332. Assistance with accommodation. The non-profit organization "Wunnéngshëlléf" was established in 1988 furnish assistance to former inmates of

reception centres for young people or adults. It provides these socially disadvantaged persons with low-cost accommodation, provided that the reception centres arrange for psycho-social monitoring. It is currently managing a total of 120 accommodation units. Assistance with accommodation is a primary concern of other services offering more comprehensive supervision (for example, Inter-action faubourgs, Caritas, Action sociale pour jeunes).

333. Measures of socio-vocational integration and counselling. Several organizations - including Action social pour jeunes, Inter-action faubourgs, GAMO, Aarbéchtshëlléf, and Co-labor - offer help with socio-vocational reintegration to unskilled workers who have no paid work and require socio-educational guidance: training and further training and on-the-job training, temporary work, and work in "protected workshops".

334. Battle against drug addiction. There are two initiatives which receive subsidies from the Ministries of the Family and Health:

(a) Jugend - an Drogenhëllef, which monitors about 300 persons and offers the following assistance: information and advice for persons at risk, drug addicts and their relatives; out-patient treatment, admission to residential facilities; and work in institutions (hospitals, reception centres). Psycho-social treatment under the methadone programme is an important component of the team's work. In addition, the personnel is requested to participate in prevention and awareness-raising activities. Their goal is to educate and train people to have a multiplier effect in preventing drug-addictive behaviour in young people's usual environment;

(b) Abrigado. This is a mobile psychological, medical and social intervention group operating in the immediate vicinity of the central station in Luxembourg City. Working from vans, the members of the group take in male and female prostitutes, drug addicts, and homeless people and direct them to the specialized services. The group participates in the methadone and AIDS programmes of action.

335. Daytime shelter and meals. These services take in isolated and socially disadvantaged people during the day time. (Téistuff is one example of such services.) In the same context attention must be drawn to the training, counselling and family assistance services described in section VII.B.5.

G. National and international adoption (art. 21)

336. The Grand Duchy recognizes the institution of adoption as one of the means of helping children who cannot live with their family to acquire a new family. The Civil Code states: "Adoption may take place only if there are legitimate reasons and if it offers advantages for the adopted child". There are two kinds of adoption: full adoption, which is the commonest kind, and simple adoption. The adoption procedure begins with an application submitted through a lawyer. Adoptions are approved by decision of a district court.

337. Full adoption means the complete integration of the child in the adoptive family and creates new bonds of irrevocable affiliation; it thus constitutes separation from the family of origin, and the child is assimilated to a legitimate child. A married couple intending to adopt a child must consist of one partner aged at least 25 years and one partner aged at least 21 years. Both

spouses must be at least 15 years older than the child to be adopted. Adoption can take place only for legitimate reasons, and the best interests of the child prevail in all cases. In order to be adopted, a child must have reached the age of three months. Children aged over 15 years must give their personal consent to their adoption.

338. When the legal or natural father and mother of the child to be adopted are known, they must give their consent to the adoption by renouncing their parental rights. They may cede this right of consent to the adoption to a social assistance service or adoption organization. In such cases the custody of the child is conferred on the service or organization, which thus acquires the right to choose the adoptive parents and consent to the adoption. If the child's parentage cannot be established, his public guardian, appointed by a guardianship magistrate, must give his consent to the adoption.

339. As in the case of full adoption, simple adoption also integrates the adopted child in the adoptive family but without finally breaking off his links with his family of origin. The parental links with the adoptive family are thus weaker. Simple adoption is revocable. It is available to a single adoptive parent aged at least 25 years or to a couple. There is no maximum age for the adopted person. If this person is married, his or her spouse must consent to the adoption but, if he has reached the age of majority, the consent of his or her father or mother is no longer necessary. The other conditions and procedures are identical to those of full adoption.

340. The number of national adoptions outside the family varies at around four a year. They usually concern children whose father and mother have not been indicated to a registry office. The public administration of such children is usually entrusted to a social assistance service or an adoption organization established by law or recognized by Grand-Ducal order. The same services or organizations can obtain the right of custody of the child, the right to choose the adoptive parents, and the right to give consent to the adoption, following a waiver on the part of the persons normally authorized to consent thereto. There are very few cases of children who are adopted following a waiver or a declaration of abandonment.

341. About 60 children from foreign countries are adopted every year. Most of them come from the Republic of Korea, Colombia, Peru, Brazil and Romania. Usually the adoption order is issued in the child's country of origin and the adoptive parents request recognition of this order or the issue of a new order in Luxembourg. Prospective adoptive parents must satisfy the conditions stipulated by the Civil Code. An administrative assent order is not required. If the country of origin so allows, prospective adoptive parents can make their applications independently of a service.

342. With regard to adoption services, the Ministry of the Family submitted to the Chamber of Deputies on 19 October 1995 a bill on "recognition of adoption services and definition of their obligations". This bill imposes on all adoption organizations the obligation to equip themselves with qualified staff and to certify the preparation of candidates. According to the bill's text, these services must, among other things, "ensure that the persons and institutions whose consent is required for the adoption have been provided with the necessary advice and are properly informed about the implications of their consent, in particular about the continuation or termination, as a result of an adoption, of

the legal links between a child and his family of origin". When a country of origin requires the files on prospective adoptive parents to be prepared and transmitted by the competent national authority or by the duly authorized services, the Ministry of the Family acts as such authority. Agreements have been signed between the Ministry of the Family and five associations; under these agreements the associations undertake to comply with the generally accepted obligations set out in the bill mentioned above.

343. Quite apart from the procedures at the time of adoption, adoptive families must take care to help their adopted child deal with specific questions which he may have: about his origins, solidity of the new parental bonds, etc. The Ministry of the Family has encouraged a group of adoptive parents in their efforts to create groups for exchange of information and meetings between adoptive parents and to establish support arrangements.

H. Protection against maltreatment (art. 19)

1. Legislation and judicial measures and procedures of protection against all forms of abuse of children

344. The Luxembourg Legislature has adopted two types of legislative measure to combat all forms of violence, brutality or neglect with respect to children: measures addressing adults (in particular adults who have authority over children) and measures of custody, education and protection addressing children.

(a) Legislation and measures addressing adults

(i) Abuse and neglect of children

345. Up to 1971 the Criminal Code did not contain any text dealing specifically with acts of violence committed against children. Although up to that date an offence of this kind was aggravated when committed against ascendants (art. 10), the general law was applicable only to inhuman parents who cruelly beat their children and totally denied them the care required by their status. Moreover, the failure to provide care and the denial of food were regarded as mere omissions and were not punishable.

346. Recognizing that such behaviour was far from rare and that the general law was insufficient to ensure the proper suppression of such abominable acts, the Legislature decided to stem the flood of crimes and offences committed against children by incorporating in the Criminal Code article 401 bis, quoted below, and recommending also that preventive measures should not be neglected.

> "Art. 401 bis. Any person who deliberately injures or beats a child aged under 14 years, or who deliberately denies a child food or care to the point of jeopardizing his health, or who commits against a child any other act of violence or battery, with the exception of minor acts of violence, shall be punished by a term of ordinary imprisonment of between one and three years and a fine of between 501 and 5,000 francs.
>
> If an illness or a personal incapacity to work results from the various types of violence or privation described above, or if there was premeditation, the penalty shall be three to five years imprisonment and a fine of between 501 and 10,000 francs.

If the guilty parties are the legitimate, natural or adoptive father and mother, or other legitimate ascendants, or any other persons having authority over or custody of the child, the penalties shall be the ones specified in the preceding paragraph when there is no illness or personal incapacity to work or premeditation, and the penalty shall otherwise be imprisonment.

If the acts of violence or the privations result either in an apparently incurable illness or a permanent personal incapacity to work, or the total loss of use of an organ, or a serious mutilation, the penalty shall be hard labour for a term of between 10 and 15 years, and if the guilty parties are persons mentioned in the preceding paragraph, the penalty shall be hard labour for life.

If the acts of violence or the privations are inflicted with the intention of causing death, the perpetrators shall be punished as if guilty of murder or attempted murder.

If acts of violence or privations habitually inflicted lead to death, even without the intention of causing death, the perpetrators shall be sentenced to death".

(ii) Abandonment by family (Criminal Code, art. 391 bis)

347. In less serious situations than the ones just described and, in particular, if the father or mother fails to fulfil, entirely or in part, the maintenance obligations towards their children required by the law, or if the father or mother has refused to fulfil these obligations when able to do so or when unable to do so through his or her own fault, the punishment shall be a term of imprisonment of between one month and one year and a fine of between 2,501 and 25,000 francs or only one of these penalties, in accordance with article 391 bis of the Criminal Code.

(iii) Indecent assault and rape (Criminal Code, arts. 372-375)

348. The Criminal Code takes due account of the seriousness of indecent assault, and the punishment depends on whether the act is committed with or without violence and threats, on the age of the victim, and on whether he or she was in a position to consent freely to or oppose the act. In accordance with these criteria and if the indecent assault is committed against the person or with the aid of the person of a child of either sex aged either under 16 years or under 11 years, the guilty party shall be punished by a term of ordinary imprisonment of between six months and five years. In addition, in accordance with article 378 he or she may be deprived of the rights of vote, election and eligibility for a period of between five and 10 years.

349. Since 1992 Luxembourg's Criminal Code (art. 375) has regarded as rape "an act of sexual penetration, of any kind and by whatever means, committed against another person, either by means of violence or serious threats or by deception or artifice, or an act amounting to abuse of a person unable to consent freely to or oppose such acts". The penalty is imprisonment. According to paragraph 2 of the same article: "Any act of sexual penetration, of any kind and by whatever means, committed against the person of a child under the age of 14 years shall be regarded as rape of a person unable to consent freely to such acts. In this

case the guilty party shall be sentenced to hard labour for a term of between 10 and 15 years".

350. Lastly, if the perpetrators of the indecent assault or rape are ascendants of the person against whom or with the aid of whom the assault or rape is committed, or if they are in the category of those having authority over that person (teachers...), or if they have abused their position in order to commit the act (civil servants, ministers of religion, physicians...), in accordance with articles 377 and 266 of the Criminal Code they suffer the penalties attaching to such crimes or offences, and the minimum penalty is doubled in the case of ordinary imprisonment and increased by two years in the case of rigorous imprisonment, penal detention and long-term hard labour.

(iv) Prostitution or corruption of young people

351. Chapter VI of the Criminal Code deals with the corruption of young people (arts. 379-382). According to these provisions, procurement and attempted procurement are punished, depending on the circumstances, by a term of ordinary imprisonment of between six months and five years if committed against a minor aged under 16 years and by rigorous imprisonment if committed against a minor aged under 11 years. The minimum of these penalties is increased in accordance with article 266 of the Criminal Code referred to in the preceding paragraph.

352. It should also be noted that by the Act of 9 July 1983 Luxembourg approved the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others signed in New York on 21 May 1950.

(v) Culpable non-intervention

353. The law obliges all witnesses of maltreatment to report the facts either to the specialized services or to the competent judicial organ, on pain of criminal prosecution for "culpable non-intervention".

354. According to article 410-1 of the Criminal Code, any person "who, without there being any serious danger to himself or to another person, deliberately refrains from assisting or seeking assistance for a person exposed to a serious peril, either when he has noted the situation of this latter person by himself or when this situation has been described to him by others seeking his intervention" may be sentenced to "a term of ordinary imprisonment of between eight days and five years and a fine of 2,501 to 100,000 francs, or to only one of these penalties". Obviously, no offence is committed when the requested person has made every effort to obtain help from the specialized services.

(vi) Kidnapping and non-surrender of a child

355. According to article 371-1 of the Criminal Code, a term of ordinary imprisonment of between eight days and two years and a fine of between 2,501 and 20,000 francs, or only one of these penalties, is imposed on a father, mother or other person who excludes or attempts to exclude a minor from the measures which should be taken in his regard pursuant to the provisions of the Protection of Young People Act or pursuant to a decision, even provisional, of a judicial authority, who excludes or attempts to exclude a child from the custody of those to whom he has been entrusted, who does not surrender a child to those entitled to claim him, or who kidnaps a child or has him kidnapped, even with his

consent. If the guilty party had lost parental authority over the child, entirely or in part, the term of imprisonment may be increased to three years.

(vii) Delegation of parental authority

356. By the Act of 18 April 1984, articles 387-1 to 387-8 dealing with the delegation of parental authority were inserted in the Civil Code. According to these provisions, parental authority may be delegated either to close relatives or to approved institutions or other trustworthy individuals. Such delegation must always be authorized by a decision of a civil court. Parental authority is normally delegated (voluntarily) when the parents are unable to take care of their children. The reasons cited by the parents are verified by the judge to whom application is made by the delegants and delegatees. Delegation may also be ordered by a judge at the request of the delegatee alone if the parents have taken no interest in the child for more than a year. Forced delegation occurs when a child is taken in by a third person or an institution without the intervention of the parents, when it is in the best interests of the child and of his de facto custodians to shield him from the fits of temper and scheming of the parents.

357. At the request of the individual or the institution which took in the child, the court may delegate all or part of the parental authority once the Public Prosecutor's Office and the parents have been so informed; three months thereafter the parents are assumed to renounce the exercise of their authority over the child. The right of consent to the adoption of a minor may never be delegated.

358. In all cases the delegation may be terminated by a new decision if justified by new circumstances.

(viii) Transfer of parental authority

359. If a minor is placed somewhere other than the home of his parents, guardian or custodians by decision of a juvenile court or judge, these persons retain only the rights of visit and correspondence. All the powers of parental authority with respect to the person of the minor are transferred to the person or to the institution to which he is entrusted, except for the right of consent to adoption or marriage.

360. With respect to the minor's property, a guardianship magistrate may appoint a public administrator for any minor subject to a placement measure ordered by a juvenile court. The magistrate is informed of the placement order by the clerk of the court. A public administrator has the same powers over a minor's property as a legal administrator under court supervision. His functions are terminated as a matter of course by the lifting of the placement order (Act of 10 August 1992, art. 11).

(ix) Trusteeship of social benefits

361. If it is established, in accordance with article 2 of the Act of 18 April 1984, that the recipient of a social benefit provided for a minor diverts the benefit from its natural purpose or if the interests of the minor are damaged, the guardianship magistrate of the minor's place of residence may, of his own accord or at the request of the Public Prosecutor's Office or of any other

person taking an actual interest in the child, appoint a third person to receive the benefit and use it for the purposes for which it is intended. The magistrate fixes the duration and other modalities of this function, which may be extended when necessary. Such an order by the magistrate may not be challenged but an appeal may be lodged by the original recipient.

(x) Suspension of parental authority (Civil Code, arts. 387-9 et seq.)

362. If the father or mother has received a criminal sentence or other sentence imposed by a court in respect of any act committed against the person or with the aid of one of their children or descendants, or if through maltreatment, abuse of authority, immoral conduct or serious neglect he or she jeopardizes the health, safety or morals of the child, he or she maybe deprived, wholly or in part, of parental authority over all their children or over one or more of them, in accordance with article 387-9 of the Civil Code.

363. If a total or partial suspension order is made against the father or mother or the survivor of them, the guardianship magistrate arranges the guardianship in accordance with articles 387-11 and 407 to 409 of the Civil Code.

(b) Judicial proceedings and custody, education and protection measures addressing children

364. It must first be pointed out that the situation of a child victim of physical or mental cruelty, abandonment or neglect, maltreatment or exploitation may be reported, even if there is no obligation to do so (see the paragraphs on culpable non-intervention), in accordance with article 7 of the Protection of Young People Act, to a juvenile court judge or the Public Prosecutor's Office "by the father, the mother, the person invested with the right of custody, by any duly authorized employee of the education, health or social assistance services, by any agent of the general or local police, or by the minor himself". Once a juvenile court judge or the Public Prosecutor's Office has been informed of such a situation, they must obviously decide whether there is a need to verify these allegations or have them verified by means of an investigation by the social services, or a medical, psychological or psychiatric examination, or observation of behaviour, or an education counselling report. They may also hear the opinion of any person able to provide useful information. In addition, they may at any time summon the minor, the persons having custody of him, his probation officers, and any other person responsible for what happens to him (Act of 10 August 1992, art. 23). During these investigations or proceedings for the implementation of the measures provided in article 1, the juvenile court judge, or the Public Prosecutor's Office if the case cannot usefully be brought before the juvenile court judge, may in exceptional circumstances make a temporary custody order with respect to the minor. He may either be left with the individuals who are caring for him or removed from his situation and entrusted temporarily to a relative, an individual, an organization, a public or private charitable or educational institution, or any other suitable establishment (Act of 10 August 1992, arts. 24-25).

365. The lifting of a temporary custody order may be requested in any event from the juvenile court or juvenile appeals chamber. The request must be deposited with the clerk of the court of the jurisdiction, which is required to rule within three days of its submission (art. 27).

366. It must also be pointed out that apart from any intervention by the courts, "in the event of serious and immediate threat to the life or health of the minor, a doctor may, if the persons having custody of him withhold their consent, take any medical measures dictated by good medical practice. In such cases the doctor must submit to the Public Prosecutor's Office within three days a report supported by evidence concerning the medical measures which he has taken" (Act of 10 August 1992, art. 7).

367. On completion of the preliminary judicial investigation, the Public Prosecutor's Office must, if necessary, serve within the legal time limit of eight days a summons to appear before the juvenile court on the parents, guardian or other persons having custody of the minor and on the minor himself. Pursuant to article 21, on the protection of young people, a summons served on a minor aged under 12 years may be remitted to his legal representative. The wording of this summons by the Public Prosecutor's Office is based on article 7 of the Act of 10 August 1992, which states that "the juvenile court may take one of the measures described in article 1 or order placement in a care institution with respect to minors whose physical or mental health, education or social or moral development are in jeopardy".

368. When the case of a minor is brought before a juvenile court, the parties and their legal representatives are informed of the deposition of the file with the clerk of the court and they may have access to this file at least three days before the hearing. However, documents concerning the minor's personality and his social and family environment may be consulted only by the parties' lawyers (art. 28).

369. Although proceedings before juvenile courts are held in public and allow all parties to be heard, article 38 prohibits the publication or dissemination of the proceedings in any way whatsoever. The same applies to the publication or dissemination of any piece of information which may reveal the identity or personality of a minor or which is subject to an order under the Protection of Young People Act.

370. During hearings before juvenile courts the case of each minor is taken separately without any other minor being present. The court hears the views of minors capable of making sound judgements, unless their best interests dictate otherwise. If a minor's best interests so require, the court may either excuse him from appearing at the hearing, order him to withdraw for the whole or part of the proceedings, or hear him in the judges' council chamber with only the parties' lawyers present. Furthermore, during the hearing the court may withdraw at any time to the judges' council chamber to hear evidence of the minor's personality from experts and witnesses or the parents, guardian or other persons having custody of him. Only the lawyers are entitled to attend such hearings. However, if the court wishes, it may summon the minor to the chamber (art. 29).

371. On the completion of the hearing:

> "A juvenile court may order with respect to minors appearing before it the custody, education and protection measures specified in article 1.
>
> Depending on the circumstances it may:

1. Reprimand the minors and entrust them or return them to the persons having custody of them, enjoining such persons, when necessary, to supervise the minors better in the future;

2. Make an educational assistance order with respect to the minors;

3. Place them under supervision with trustworthy persons or in any appropriate establishment, even abroad, for the purposes of accommodation, treatment, education, instruction or vocational training;

4. Place them in a State reformatory.

The court may make the return of the minor to his existing situation subject to one or more of the following conditions:

(a) Regular attendance at an ordinary or specialized school;

(b) Performance of educational or voluntary service in accordance with his age and resources;

(c) Compliance with the educational and medical directives of an education counselling or mental health institution.

It may at any time place under the educational assistance service minors subject to one of the measures mentioned in paragraphs 3 and 4 above.

In all cases in which minors are placed under the educational assistance service they are assigned by the juvenile court or judge to probation officers or persons working in an establishment or body offering aid, advice or assistance to children and their families. Such persons to whom a minor is assigned shall remain in contact with him and, depending on the circumstances, shall visit the parents, persons, organizations or institutions having custody of the minor. They shall observe the minor's situation, proclivities and conduct. Whenever they see fit they shall report to the juvenile court judge on the minor's moral and material situation. They shall propose to the juvenile court judge any measures which they think may help the minor. The parents shall periodically receive information about the situation of their children. If the persons having custody of a minor refuse to grant access to his home to persons instructed by a juvenile court or judge to carry out measures of investigation or supervision, the juvenile court judge may call upon the officers and agents of the forces of public order to assist them (Act of 10 August 1992, arts. 13 and 14).

Measures ordered by a juvenile court terminate automatically when the minor reaches the age of majority.

However, a juvenile court judge may, with the consent of the minor concerned and if his best interests so require, extend any of the measures provided for above for a term not exceeding the minor's 21st birthday. The measure ceases to have effect on the expiry of the period fixed in agreement with the person concerned or when he reaches the age of 21 years. It may be terminated at any time by a juvenile court judge

acting on his own initiative. It must be terminated at the request of the person concerned".

372. Decisions of a juvenile court may of course be appealed within the legal time limits by the Public Prosecutor's Office and be challenged and appealed by the minor, his parents, guardian or other persons having custody of him. The appeal shall cover, unless it is limited, the whole of the operative part of the decision. The juvenile court may order the provisional enforcement of its decision, stating the special reasons for this part thereof (Act of 10 August 1992, art. 30).

373. Pursuant to article 9 of the Protection of Young People Act, a juvenile court judge may also, independently of the Public Prosecutor's Office, order one of the measures of custody, education and protection specified in article 1 with respect to any minor who requests his aid and assistance, when such a measure is necessary in the minor's best interests. In such cases, the judge is required to review the situation and take a final decision within 15 days at the latest, after having heard or at least summoned the parents, guardian or other persons having custody of the minor and after considering the report, even oral, of a probation officer. The judge's final decision is communicated by registered letter and recorded delivery to the parents, guardian or other persons having custody of the minor. It may be appealed within a time limit of 10 days from such communication.

374. Lastly, any of the measures ordered by the juvenile court or judge, in the case of article 9 cited in the preceding paragraph, may be revoked or amended, in the minor's best interests, at any time either on the initiative of the court or judge or at the request of the Public Prosecutor's Office, the minor, his parents, guardian or other persons having custody of him, or on the report of a probation officer. However, when the request is made by the minor, his parents, guardian or other persons having custody of him, it may not be submitted until one year has elapsed from the date on which the decision ordering the measure became final. If the request is rejected, it may not be resubmitted until one year has elapsed from the date on which the decision to reject became final. In any event, these measures are subject to review every three years if they have not meanwhile ceased to have effect (Act of 10 August 1992, art. 37).

375. Statistics. The following Ministry of Justice statistics concerning Luxembourg's two juvenile courts call for some comment:

(a) Decisions: this heading shows the number of decisions taken by the juvenile courts at the request of the Public Prosecutor's Office but they do not indicate how many minors were involved or whether the cases were based on the fact that the minors were in moral or physical danger within the meaning of article 7 of the Protection of Young People Act or on the Criminal Code (see chapter X on children in conflict with the law). Since the age of criminal responsibility is 18 years, minors who have violated the criminal law are to be regarded as being in danger (except in the event of committal for trial) in the same way as minors requiring protection against maltreatment. The custody, education and protection measures which the juvenile courts may order are identical for both categories of minor;

(b) Orders: this heading shows the number of the decisions which a juvenile court judge is authorized to take independently of the Public

Prosecutor's Office on the basis of articles 9, 23, 32 and 37 of the Protection of Young People Act. It prompts the same comment as is given in the preceding paragraph.

Year	Decisions	Orders	Temporary custody measures
1990	279	132	-
1991	313	121	-
1992	334	124	-
1993	322	52	105
1994	374	48	93
1995	302	45	216

2. Bodies concerned with the prevention, detection and treatment of all forms of maltreatment and neglect of children

(a) National multi-purpose social assistance service (see also section VII.E (h))

376. This service covers the whole country, which is divided into three regions, further divided into sectors. Each region has several regional Medical-Social Centres (CMS), each covering several sectors. Each regional centre is responsible for organizing certain consultations, such as consultations for infants, the school medical service, etc., and certain specialized services such as, for example, the national service to combat over- indebtedness and the psychological and psychotherapeutic consultation service. Each region operates under the authority of the social (health) worker (AHS) responsible for the region. The work of each sector in connection with the tasks entrusted to the service is organized by an AHS. Doctors work on a sessional basis in the medical-social centres.

Profile of the three regions and personnel attached to the sectoral medical-social and multi-purpose social services

Regional Medical-Social Service	Centre	North	South
Population*	208 133	77 608	122 678
Households*	76 121	24 674	44 351
Communes	51	55	13
Schoolchildren**		8 907	6 879
Sectoral multi-purpose service			
Number of sectors	31	17	20

Regional Medical-Social Service		Centre	North	South
A(H)S:	full-time	18	10	16
	part-time	14	8	4
Nurses:	full-time	3	-	2
	half-time	1	6	1
Social action service				
Number of sectors		4	3	3
A(H)S:	full-time	2	1	3
	part-time	2	2	-
Administrative service				
Secretaries:	full-time	5	2	3
	part-time	3	6	1
Specialized services***				
		5	5	-

* According to STATEC.
** Own statistics.
*** These services are provided by economists, dieticians, psychologists, family counsellors, lawyers, social (health) workers, nurses.

377. Owing to the nature of their organization and their global approach to the medical-social and social problems of the inhabitants of a given sector, the multi-purpose services and the Luxembourg League for Preventive and Medical-Social Action clearly play a vital role in the prevention, detection and treatment of all forms of maltreatment and neglect of children.

(b) Kanner-Jugendtelefon (hotline for children and young people)

378. This telephone advice service is designed for children and adolescents finding themselves in situations of acute crisis who need to speak to and unburden themselves to a third person, and to obtain accurate information.

379. The Kanner-Jugendtelefon was established in 1992 along the lines of similar initiatives in neighbouring countries. It is operated by the non-profit organization Caritas Jeunes et Familles in collaboration with the Kannerschlass Suessem Foundation, the Luxembourg League for Preventive and Medical-Social Action, and the Luxembourg Red Cross. The operating costs are covered under an agreement with the Ministry of the Family.

380. The hotline's objectives are to:

(a) Provide children and adolescents with easy access to someone who will listen to them and allow them, under the seal of anonymity and confidentiality, to speak freely and without fear;

(b) Recruit and train volunteer listeners to increase the number of lines;

(c) Provide basic and further training in order constantly to improve the services provided by the staff;

(d) Act as spokesman to the public authorities about the individual and collective suffering and needs of children and adolescents.

Development of the service since its start-up

Year	Number of hours of service	Number of contacts*	Number of contacts per hour of service
1992	372	533	1.43
1993	753	729	0.97
1994	1 173	1 207	1.03
1995	1 566	1 210	0.77

* This table lists only "serious" calls.

381. The Kanner-Jugendtelefon service plans to strengthen the team of voluntary listeners in order to keep lines open during the evening hours every day of the week.

(c) Family planning and rape information service

382. The non-profit association Luxembourg Movement for Family Planning and Sex Education was constituted in 1965. Its activities have made a big contribution to publicizing the Act of 15 November 1978 on sex information, prevention of illegal abortion, and regulation of abortion. This service is described in section VII.B.4. It is pointed out in the present context that the medical treatment and medicines provided by the centres are free to all minors who attend, as well as to any other person if her or his social situation so indicates and subject to the opinion of a social worker supported by evidence.

383. Since 1984 the rape information service has gradually been established in the Movement's three centres. It is run by a team of doctors and psychologists of both sexes. In accordance with the Act of 15 November 1978, mentioned above, the service's activities can be defined in a few key words: reception, information, prevention, medical treatment, support, removal of feelings of guilt, and recording of the facts if the victim may wish to lodge a complaint at a later stage. The service's doctors and psychologists listen to all victims, whether the attack is of old date or recent. There is no age limit, except in the case of children under six, who are directed to the paediatric clinic where the Luxembourg Association for Preventive Action and Children's Services (ALUPSE) has its headquarters. As well as working with ALUPSE, the service collaborates closely with the social services, the young people's protection service of the Public Prosecutor's Office, and the police and gendarmerie services.

384. In 1992 a major national awareness-raising campaign was carried out through the media, conferences and round tables. The statistics given below show the number of recent victims or victims of old date who got in touch with the rape information service following this information campaign on sexual abuse:

Year	Total	Minors	Incest	Boys	Complaints
1991	177	121	69	14	44
1992	217	150	91	28	48
1993	209	166	105	27	67
1994	203	139	90	30	77
1995	179	121	70	17	57

385. Since then Selbsthilfegruppen (mutual assistance groups) have been organized in the centres of the Luxembourg Movement for Family Planning and Sex Education both for adult women and for adolescents (old or new victims in both cases). These groups meet with a female psychologist present.

386. Free further training has also been offered for the past four years, once a week, for persons concerned about the problem of rape and incest. Victims can obtain all the information they need about the complaint procedures. In all cases psychological follow-up can be arranged in the light of the victims' wishes and needs.

387. Doctors and psychologists attach great importance to the effort to increase the awareness of the general public and target groups such as the inmates of reception centres, children in primary and secondary schools, female teachers, female social workers, and members of parents' associations.

388. For the past 10 years men who have committed sexual abuse but have become aware of their own violent natures have been meeting in groups led by a male psychologist in order to assess and improve their understanding of their behaviour towards women.

389. There is a plan to install a telephone hotline in cooperation with the duty desk of the maternity unit at the Luxembourg General Hospital.

(d) Luxembourg Association for Preventive Action and Children's Services (ALUPSE)

390. This non-profit association was created on 25 January 1984. According to article 4 of its statutes, its purpose is to assist maltreated children and their families. It endeavours to achieve this purpose by the following means:

(a) Seeking out, identifying and studying cases of children or families at risk;

(b) Studying the causes of deterioration of the family situation;

(c) Acting as intermediary to smooth out difficulties and improve the situations identified, including placement of the child in an appropriate home and provision of legal and material assistance to the parents;

(d) Reporting to the competent authorities, with a view to their taking the appropriate action, of exceptionally serious cases or difficulties which cannot be resolved;

(e) Encouraging the sponsorship of children covered by protection measures;

(f) Training activities to provide staff qualified in all aspects of the protection and assistance of maltreated children;

(g) Promoting any initiative or legal measures to prevent and resolve family difficulties and to provide for the care of maltreated children by public bodies or private individuals;

(h) Assisting maltreated children in accordance with their best interests and, when necessary, appearing before the courts to defend them.

391. In order to attain the goal stated in article 4 of its statutes, ALUPSE equipped itself from the outset with a multidisciplinary team consisting of volunteers or members of child-protection organizations, in order to ensure the coordination of the action taken to achieve this goal. The team included members of placement bodies, the Luxembourg Movement for Family Planning and Sex Education, the present Central Social Assistance Service, the Child Guidance Service, the School Psychology and Counselling Service, the Luxembourg Committee for UNICEF, social and social health workers, lawyers, doctors, psychologists, etc. The collaboration among the members of this multidisciplinary team in a non-hierarchical group made it possible quickly to clarify and coordinate the many different aspects of cases of maltreated children or children in danger of maltreatment, and the different opinions expressed, and thus to arrive by means of a common approach at a balanced solution most advantageous to the welfare of the children and their families. Between 1984 and 1993 the team dealt with about 20 maltreated children a year. Since 1 January 1994 a social worker and a psychologist have been taken on by ALUPSE (under an agreement with the Ministry of Health in order to provide even more specific care for maltreated children.

392. Following the recruitment of these staff members ALUPSE took up the cases of 124 children in 1994 and 152 in 1995, in which there was an accusation or suspicion of maltreatment. Following a more detailed analysis of the cases dealt with by ALUPSE, it was found that in 1994: 50 children had been actually maltreated (beatings, neglect, sexual abuse, mental cruelty and multiple abuse); 11 others were at risk of maltreatment; and 63 lived in situations in which there was a degree of domestic violence without it amounting to maltreatment of the children. It is impossible to supply accurate statistics on the actual number of maltreated or neglected children.

(e) Central Social Assistance Service: Youth Protection Section

393. The Central Social Assistance Service (SCAS) of the Public Prosecutor's Office was created on the basis of article 77 of the Judiciary Act of 7 March 1980, as amended by article XIII of the Penalties Schedule Act of 13 June 1994.

It takes its instructions from the judicial authorities via the Public Prosecutor's Office, of which it is part. SCAS has six sections: Social Protection; Suspended Sentences and Probation, Works of Public Interest, Philanthropic Works; Guardianship of Incapacitated Adults and Minors; Financial Aid, Pardons and Legal Assistance; Assistance to Victims (section currently non-operational); and Youth Protection. It is this last section which concerns us here, since it is the one responsible for carrying out the social inquiries requested by the various judicial bodies as a means of providing the necessary information for them to take action to protect a minor's best interests when they are threatened.

394. This section, which is currently composed of one post of psychologist (two half-time) and nine and a half probation officer posts (six full-time and seven half-time), receives these requests for investigation from the various services of the country's two district courts - prosecutors, juvenile court judges, guardianship magistrates, interim relief judges, and divorce court judges - as well as from the appellate chambers of these bodies. In 1995 the section carried out 584 investigations (an increase of 16 per cent over 1994), 501 of which related to article 7 of the Protection of Young People Act, i.e. to minors whose physical or mental health, education, or social or moral development were at risk.

395. The following table shows the evolution of the numbers of requests for investigation concerning children at moral or physical risk in relation to the total number of investigations carried out each year by the Youth Protection Section. It is clear from the table, and a source of concern, that the number of such investigations has been constantly increasing over the past 12 years. Unfortunately, we have no information as to the causes of this trend.

Year	Total investigations	Total article 7 investigations
1983	291	85
1984	419	172
1985	389	170
1986	392	195
1987	549	301
1988	577	349
1989	548	285
1990	533	274
1991	490	263
1992	574	326
1993	547	409
1994	504	389
1995	584	501

396. Hasty conclusions should not be drawn from the statistical data supplied by SCAS concerning children at physical or moral risk (art. 7) or from the data supplied by the Ministry of Justice reproduced above in the section on judicial procedures and custody, education and protection measures for children.

397. In fact:

(a) On the one hand, of the 501 investigations carried out by SCAS in 1995:

(i) 329 were based on article 7 of the Protection of Young People Act and were classified by the judges either as "urgent", i.e. priority, or as "pre-investigation". In the latter case a second report was often requested from the probation officer;

(ii) 127 investigations in connexion with developments in a minor's situation or with three-year reviews;

(b) On the other hand, the 302 decisions taken by the juvenile courts in 1995 related without exception to minors cited by the Public Prosecutor's Office:

(i) Either on the basis of article 7 of the Act of 10 August 1992;

(ii) Or on the basis of a violation of the criminal law by the minor. SCAS usually does not carry out a social investigation in such cases, but a police officer or gendarme makes a morals report;

(iii) Or on both grounds.

398. It is therefore difficult to compare the statistics of SCAS and the juvenile courts to produce a global picture of the phenomena of juvenile delinquency and maltreatment and neglect of children in Luxembourg. The inadequacy of the available statistics on the protection of young people also prevents us from making an objective evaluation of the effectiveness of social work and judicial measures. Further scientific research is needed to lay the foundations for a fresh compilation of statistics with a view to presenting them within a time-frame which would allow adaptation of the intervention policy. Such a policy must be designed on the basis of a global approach using all the resources of social and preventive action. It implies consultation of all the parties involved and the collaboration of scientific circles.

I. Participation of children

399. In the spirit of the Convention, children placed outside their family environment are invited to participate actively in all decisions concerning their placement, changes in its conditions, and the organization of their daily life in their placement home.

400. Although there is no plan to involve children in the work of the management committees, they do have an opportunity to state their views at group meetings in their institution and during the discussion of their case.

VII. HEALTH, WELFARE AND QUALITY OF LIFE (art. 24)

A. Basic facts

401. Hospital statistics refer to the different hospitals regulated by the amended Act of 29 August 1976 on the planning and organization of hospitals and the Grand Duchy regulations of 30 May 1994 establishing the national hospital plan.

402. The different types of hospitals that may be distinguished are: major hospitals, regional hospitals, local hospitals, specialized hospitals, follow-up hospitals, rehabilitation centres, convalescence centres, spa treatment centres, care homes and diagnostic centres. As from 1995 there are:

(a) Hospitals treating patients during the acute phase:

- major hospitals;
- regional hospitals;
- local hospitals;

(b) Medium stay hospitals:

- follow-up hospitals;
- functional rehabilitation centres and services;
- psychiatric rehabilitation centres and services;
- convalescence centres;
- the Mondorf Spa and Health Centre;

(c) Long stay hospitals:

- care homes;
- the Neuropsychiatric/Psychogeriatric Hospital.

403. In 1993 there were 2,737 beds available in the 17 hospitals with acute beds (average length of stay: 10.17), 625 in the 2 specialized hospitals (average length of stay: 113.51), 279 in the 5 medium stay hospitals (average length of stay: 30.68) and 919 in the 10 long stay hospitals (average length of stay: 241.06). In 1993 there were 848 doctors licensed to practise in Luxembourg, comprising 532 (62.74%) specialists and 316 (37.26%) general practitioners, which is equivalent to one specialist for every 752 people and one general practitioner for every 1,266 people. A total of 40 paediatricians were in practice in Luxembourg in 1993, which amounts to one paediatrician to 1,711 children. There were also 203 dentists practising in Luxembourg in 1993, amounting to one dentist for every 1,970 people.

404. In regard to the health of the people of Luxembourg there are two conventional indicators that should be noted:

(a) Life expectancy at birth has increased by 55% for men and 59% for women between the beginning of the century and the present, and is now 72.6 and 79.1 years respectively;

(b) For 25 years the infant mortality rate has been less than 20 deaths per 1,000 live births; in 1992 the rate was 8.5 per 1,000.

B. Education and prevention

1. Medical control and protection of pregnant women

405. The Act of 3 July 1975 introduced prenatal leave (for working women) of eight weeks. This leave may be extended if delivery takes place after the expected date. The Act also introduced eight weeks' postnatal leave which may be extended by four weeks in cases of premature births, multiple births and mothers breastfeeding their babies. During these two periods of leave, women are entitled to payment of maternity benefit; the cost of this benefit is borne by the State and it is paid through the health insurance funds. Maternity leave does not cause a break in the contracts of women who work. In order to bring up their children, women may, without notice, decide not to resume their work when their maternity leave expires (special education leave).

406. Systematic medical surveillance of pregnant women was introduced by the Act of 20 June 1977. All expectant mothers receive at least five medical examinations and one dental check during pregnancy, and one postnatal examination. Consultant physicians may request intervention by a social worker if they think the future mother needs special help or protection. Medical surveillance is not compulsory, but it is linked with the receipt of prenatal and postnatal benefits.

407. Pursuant to the Act of 31 July 1995 Grand Duchy regulations may provide for complementary consultations by midwives. All services relating to maternity are covered by the State. More than 99% of births in Luxembourg take place in maternity units with a doctor and a midwife present.

2. Child health

408. Immunizations continue to be a very effective defence against many communicable diseases: in the framework of its expanded programme on immunization, the World Health Organization has elaborated strategies that are intended, inter alia, to improve surveillance at the regional, national and local levels and to increase immunization coverage. The immunizations included in the immunization schedule are free of charge and this schedule is periodically adapted in the light of new developments in vaccines (*Source: Health for All, Ministry of Health, 1994*). Immunizations against poliomyelitis, diphtheria, tetanus, whooping cough, tuberculosis, measles, rubella, mumps, Haemophilus influenzae type b, and hepatitis B (free immunization for infants at present) are currently provided. Efforts are being made to optimize the immunization schedule so as to reduce the number of injections by using combined vaccines.

409. A survey carried out by the Division of School Medicine of the Health Directorate (Ministry of Health) in 1992 revealed that on the whole immunization coverage is very good, except for measles, rubella and mumps for which it falls short of 80%. The elimination of measles, however, a disease which can lead to serious complications, requires immunization coverage of close to 100%. This survey was based on the immunization cards of first year primary school pupils (cards issued to the parents at the birth of a child indicating its schedule of immunizations).

410. The Act of 20 June 1977 stipulates that all children brought up in the Grand Duchy of Luxembourg must be submitted by their parents or any other person with custody to two examinations immediately after birth and four subsequent medical examinations up to the age of two years. The two examinations after birth must be carried out by a paediatric specialist. These are done in the maternity unit in which the child is born. The health record book, which every child must have, is issued to the mother, father, or any other person responsible for the custody of the child, by the civil registry officer when the child's birth is declared. In practice, the health record book is given to the parents at the maternity unit where the birth took place. The first of these examinations is carried out within 48 hours of birth and the other at discharge from the maternity unit. The other four examinations take place: the first at the age of 3 to 8 weeks, the second at 4 to 6 months, the third at 9 to 12 months, and the fourth at 21 to 24 months. The costs of these medical examinations are borne by the health insurance funds to which the pregnant women and infants respectively are affiliated. The costs of examination of persons with no insurance cover are borne by the State.

411. All children brought up in the Grand Duchy of Luxembourg are submitted by their parents or any other person responsible for their custody to two medical examinations and two dental examinations between the age of two completed years and four completed years. The costs of the medical examinations are borne by the health insurance fund to which the child is affiliated. Failing this, they are borne by the State (Act of 15 May 1984). The first examination is carried out at the age of 30 to 36 months and the second at 42 to 48 months. The same periodicity applies to the dental examinations. The results of the examinations are entered in the child's health record book. Parents must always have the health record book with them when they go to their child's doctor.

412. Perinatal mortality (still births and early neonatal deaths up to and including the sixth day) and infant mortality (deaths at under one year) have been of particular concern to the Ministry of Health for many years. For the evolution of the infant mortality rate from 1980 to 1995, see annex 6). Luxembourg made a certain amount of progress in the 1980s, but not as much as the progress made by other countries of the European Union. A new and substantial fall was recorded in 1993 and it has been possible to maintain this level. The Luxembourg rates are below the average rates for the European Union.

413. The proportion of births to mothers under 20 fell from 7.8% (1969-1971) to 2.7% (1992-1994). The fertility rate is well below that of the other countries of the European region (WHO).

414. Sudden infant death is by far the most frequent cause of death in children between 1 and 12 months. It accounts for nearly 50%, or possibly more than 50%, of deaths occurring in this age group. A new decrease in its relative share appears to occur as from the 90s. The infant mortality rate remains more favourable among girls, although the difference between boys and girls is tending to disappear. Higher mortality rates for males may be partly due to the higher incidence of sudden infant death among boys, with a male/female ratio of 1.47 (mean value for the period from 1979 to 1993). During this period, mortality rates for sudden infant death (rates calculated over three years) were more than 2 per 1000 live births.

415. Since the beginning of the 1980s, a considerable drop in mortality from accidents (external causes) may be noted in children under 14 years. At present, mortality from external causes affects boys and girls to a more or less similar extent.

416. In 1994, the Ministry of Health convened a working group to consider how to improve the management of maternal and infant health in the framework of pregnancy surveillance. Following the work of this group, an expanded commission was set up in 1995 with a mission to propose a new perinatal programme for the Grand Duchy.

417. It is planned to extend the special model declaration of the cause of death (applicable for still births and deaths under the age of 10 days) to infant deaths (up to the age of one year). This measure, which has already been adopted by other European countries, will make it possible to take account of the role played by certain factors in infant mortality (prematurity, low birth weight, type of delivery, single or multiple birth...).

418. Maternal mortality occurs only exceptionally.

3. Education for health*

419. Health education has been brought into nursery and primary school curricula through science awareness. The need for training and information of teachers on health education has been felt at the national as well as the European level. In 1992, a national seminar which brought together all teaching orders from the pre-school to the post-primary level provided the opportunity for a fruitful exchange of views and gave shape to future orientations. In post-primary education, health education is mostly included in courses in biology, lay or religious moral teaching, physical education and sports or in certain specific courses in technical secondary education.

420. The aim of health education is to enable pupils to take enlightened decisions relating to health. They learn to understand how their body functions, its needs, interaction with the environment and ways of keeping it in good health. The relationships between certain types of behaviour and their positive or negative effects on health and welfare become apparent. Pupils come to understand that health is an asset and that they can actively contribute to its conservation and promotion.

421. Health education as an educational principle is the responsibility of teachers. It is not necessarily confined to the disciplines traditionally concerned with anatomy, physiology and hygiene, but may also be taught in language classes, for example by means of carefully chosen texts for reading followed by enlightened discussion.

422. In primary education, there are some medico-social centres with premises particularly well designed for school medicine. Next to the school doctor's examining room there is a waiting room that can serve as an actual classroom. The children, instead of passively waiting their turn to be examined by the school doctor, can familiarize themselves with such topics as corporal hygiene,

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* Source: Health for All, Ministry of Health, 1994.

oral hygiene, control of head lice, a healthy and balanced diet, protection against various diseases through immunization... Depending on the children's age, active participation is encouraged with the help of pictures to colour or to draw. Suitable audiovisual material facilitates the task of the paramedical personnel.

423. The Ministry of Health publishes a manual, the "Mini", once a year for children in pre-school and the first year of primary education; this manual has worksheets dealing with different subjects and sets out to interest children in their health and promote healthy lifestyles. This document is distributed by the teachers to the children. It is used for classwork and helps both teachers and parents to guide the children. Children in primary school receive the magazine "Beo" once a year; in 1995, the content focused on the problem of alcohol.

424. In post-primary education, the actions may consist in:

(a) Providing schools with mobile exhibitions on tobacco, drugs in general, healthy nutrition, cancers and their prevention...;

(b) Organizing courses on specific subjects such as AIDS or drugs;

(c) Leading workshops for pupils, and participation in health days or weeks organized by the staff and pupils of schools.

Pupils in post-primary education receive the magazine "Groggi"; in 1995, this dealt with AIDS.

425. The Ministry of Health publishes 20 "letters to parents"; these are leaflets dealing with various problems arising in the course of normal child development, and are intended for young parents.

426. Other actions may be enumerated as follows:

(a) Actions promoting a healthy diet and healthy lifestyles;

(b) Actions to raise awareness throughout the country with a Ministry of Health information bus;

(c) Participation in annual European weeks to combat drug addiction;

(d) Participation in World AIDS Day;

(e) Organization of a sports week for primary school children; in 1995, this event was on the theme of "Healthy eating and drinking".

4. Sex education and family planning

427. The Act of 15 November 1978 on information for sex education, the prevention of clandestine abortion and the regulation of voluntary termination of pregnancy comprises two parts: chapter I: On measures of prevention and protection; chapter II: On the voluntary termination of pregnancy.

(a) Voluntary termination of pregnancy

428. Article 1 stresses the intention of the legislator to guarantee respect for all human beings from the inception of life. There should be no infringement of this principle except in cases of necessity and on conditions defined by the law. These conditions are set out, in particular, in article 12 (article 353 of the Penal Code). Voluntary termination of pregnancy is not punishable

(a) When it is done within the first twelve weeks;

(b) When the pregnancy or birth may endanger the physical or mental health of the mother; or there is serious risk that the child when born will have a serious illness, physical malformations or be substantially mentally impaired; or where the pregnancy can be considered the result of rape;

(c) Provided the pregnant woman has consulted a gynaecologist or obstetrician who informs her of the medical risks connected with the intervention and she signifies her agreement in writing;

(d) Provided it is carried out by a doctor in a hospital.

Except where there is an imminent threat to the life of the pregnant woman, no doctor is bound to carry out a voluntary termination of pregnancy; likewise, no medical auxiliary is bound to assist. The costs of voluntary termination of pregnancy are reimbursed by the health insurance funds.

429. The authors of this report do not have any statistics providing information on the number of voluntary terminations of pregnancy carried out in Luxembourg, the number of voluntary terminations of pregnancy carried out in foreign hospitals on women living in Luxembourg or the number of medical interventions carried out and producing the effect of abortion. Note: there are none because the law does not provide for notification of voluntary termination of pregnancy and there is no specific code in the nomenclature of medical acts.

(b) Measures of prevention and protection

430. Articles 2 and 3 of the Act of 15 November 1978 concern the information and sex education of children. This mission is first of all the responsibility of the family, and then of the school. The school should intervene in a subsidiary manner by incorporating sex education at all levels and in different disciplines without making it into a special subject. In accordance with article 3, special courses have been started both in teacher training (Higher Institute of Educational Training and Research) and in the training of educators (Institute of Educational and Social Studies).

431. Article 4 provides that a free information pack must be given by the communal authorities to all candidates for marriage and by the school authorities to pupils in post-primary education. This information pack should be prepared under the responsibility of the Ministry of the Family in collaboration with the Ministry of National Education and the Ministry of Health. The third edition of this pack was published in 15,000 copies in 1994. The brochure is available in French and in German. It has been drafted by a working group comprising delegates from these ministries, representatives of NGOs working in

the socio-family and socio-educational fields and experts in law, psychology, educational method, medicine, teaching and social work. These are the contents:

Love and dialogue

- talking to each other
- disagreeing: yes, but how?
- sexuality and tenderness
- misunderstandings in love
- useful addresses

Love and the family

- education: the couple's task
- children have rights
- solidarity in the family
- useful addresses

Love and its consequences

- pregnancy and birth
- post-natal depression
- family planning
- contraception - a question for the couple
- counselling in cases of conflict over pregnancy
- sexually transmitted diseases
- useful addresses

Love and problems

- love is fragile
- the aggressions of the outside world
- getting too heavily into debt
- foreigners
- the pain of failure
- useful addresses

Love and the law

- premarital examination
- the celebration of marriage
- the respective rights and duties of the spouses
- marriage regimes
- pecuniary relations between spouses
- filiation by blood and by adoption
- divorce
- abortion
- rights connected with maternity
- help with housing
- family allowances
- minimum social wage
- minimum guaranteed income
- leases and rents
- useful addresses

432. Articles 5 to 11 deal with the creation, management and functioning of regional consultation and family information centres. It is the task of these centres, established by the government and managed by NGOs, to obtain information either through individual interviews or through collective information sessions on all aspects of the physical, social and mental well-being of members of the family. The law gives emphasis to the following particular issues: contraception and voluntary sterilization, adoption, voluntary termination of pregnancy. Any medical care relating to sexual health may be given at the centres, provided it is given outside the hospitals and by a doctor. Article 10 stipulates that it is the mission of these centres to organize regional courses (in the cantonal capitals) of sex information and education.

433. The management of these centres was entrusted in 1978 to two private bodies: Action Familiale et Populaire (established in 1946) and the Luxembourg Movement for Family Planning and Sex Education (established in 1965). Consultation and information offices were opened in Luxembourg City, at Esch-sur-Alzette and at Ettelbruck. Over the years, the fields of intervention of these two bodies have become more diverse and specific. Their initiatives in the field of counselling and family information have been complemented by projects for training, consultation and assistance carried out by other NGOs (cf. presentation in VII.B.5). In 1996, the three centres of the Luxembourg Movement for Family Planning and Sex Education had a team of two part-time doctors, one full-time psychologist and four part-time psychologists, six doctors and one marriage guidance counsellor working as locums and three administrative staff. In 1995, the Movement gave 17,505 consultations in various forms; 53% of the clients were of Luxembourg nationality, 29% were under 20, 53% were under 25, and 73% were single. Sex information and education were the most common reason for contacting the Movement (32%); various medical examinations including cancer screening followed in second place (28%); one consultation in five was for contraception (20%); in 17% of cases emotional problems were the reason for the consultation; rape and sexual abuse, detection of sexually transmitted diseases and voluntary termination of pregnancy were both the reason, in 1% of consultations, for the intervention sought.

434. In 1984, the Luxembourg Movement for Family Planning and Sex Education set up a rape information service at its centres in Luxembourg, Esch-sur-Alzette and Ettelbruck. Teams of doctors and psychologists of both sexes offer services of reception, information, prevention, psychological counselling, medical care and witness (in the case of legal proceedings). The teams are above all at the disposal of the victims, irrespective of whether the problem is old or recent aggression. The movement collaborates closely with the social services of ALUPSE (The Luxembourg Association for the Prevention of Cruelty to Children), and the youth protection sections of the public prosecution department, gendarmerie and police.

435. Action Familiale et Populaire has concentrated more on the social and educational aspects of its commitment to the service of families and has developed various initiatives in a broad field of social family action:

(a) Family consultation and formation centre: (legal, social and psychological types of consultation);

(b) Organization of marriage preparation courses (organized by itself or in collaboration with other NGOs);

(c) Management of day centres and day nurseries (Luxembourg, Esch-sur-Alzette, Ettelbruck);

(d) Organization of school work support sessions;

(e) Management of a social service for the elderly;

(f) Management of a play resource centre and organization of an annual children's fair;

(g) Training of baby-sitters;

(h) Organization of family excursions and holidays;

(i) Various publications (including the family page in the Catholic daily newspaper).

436. In Luxembourg, AIDS screening strategy is based on three principles. Tests must be voluntary, free and (if necessary) anonymous. This is a strictly private matter and for minors, (anonymous) testing is done without the prior consent of the parents. Before undergoing a screening test, people are advised to seek counselling from a doctor or an AIDS consultation centre. Even when the result is good (no seropositivity), people are advised to protect themselves systematically in the future by adopting responsible behaviour in regard to risk.

437. The test is not a panacea. It is essentially the information and awareness campaigns that can bring positive results in the fight against HIV infection and all discrimination. In regard to minors more especially, campaigns are conducted at several levels:

National campaigns (posters, brochures) coordinated by the Ministry of Health;

Campaigns targeted on young people: information sessions for teachers and pupils in schools (secondary and primary schools) and homes, information stands, collaboration with youth clubs, youth centres or other organizations, etc;

HIV infection is included in secondary school biology programmes.

438. As there is no register of persons who are seropositive, it is impossible to furnish statistics on juvenile seropositives. With regard to the age distribution of cases diagnosed, there has been one case in the 1 to 4 year age group, 1 case in the 5 to 9 year age group and 3 cases in the 10 to 24 year age group (out of a total of 105 cases).

5. Family training, consultation and assistance

439. In 1953, the Government created a Department of the Family and Population attached to the Ministry of Education. The first Minister of the Family was Professor Pierre Frieden, who was appointed Minister of State (title of the

President of the Government) in 1958, and took the problems of the family to heart, insisting above all on family education. He realised that the family was evolving and that young people needed to be prepared for it. Professor Frieden asked the primary school teacher Jos. Bour, engaged as a volunteer in a family organization, to set up a family education section within the Ministry of the Family. Mr Bour developed several initiatives: regional family education and training centres, schools for parents (lectures, talks and seminars at the national, regional and local levels, for married couples and parents), radio broadcasts, publication of brochures, sex education in schools, sex education for military personnel.

440. Between 1953 and 1972 the family education and training centres offered girls in a given region a very highly developed and varied programme of family education. Each course lasted at least one year and consisted of a maximum of 48 lectures. A wide diversity of topics were touched upon: modern girls, friendship, the family today, home economy, family budgeting, legal aspects of conjugal life, choice of a spouse, psychology in the life of the couple, understanding of character, child development, possible failures of marriage, religious and moral questions, hygiene, artistic training... The family education section of Ministry of the Family organized these activities in close collaboration with other ministerial departments (for example, Health, National Education), public administrations, communes and parishes, and NGOs such as the Luxembourg Red Cross. These centres of education and training can be regarded as a State form of preparation for marriage.

441. As from the 1970s, it was felt that in a pluralistic world and in an open society it was for NGOs with diverse philosophical orientations and not for the State to develop projects for consultation and training. This position was defended above all by the family organizations: Action Familiale et Populaire, the Luxembourg Movement for Family Planning and Sex Education, and some services run by churches. The Ministry of the Family gave a new orientation to its initiatives: it cooperated with NGO projects by means of subsidies, assuming coordination roles (for example, in preparation for marriage) and offering courses of training for trainers (for volunteers working with NGOs).

442. In 1989, the Minister Jean Spautz set up a family promotion service within the Department of the Family to stimulate and coordinate projects to promote and protect the rights of the members of conjugal and family communities. The service is to participate in the development of initiatives that make for the autonomy of families and the personal development of their members. These projects are considered an indispensable pillar of policy for families, complementing measures of a financial order. The service works in close collaboration with NGOs offering initiatives of training, consultation and assistance to families. In 1995, 17 services managed by private bodies thus benefitted from agreements. The credits available amounted to 132.5 million and 60.30 permanent posts were covered by the agreements. The Minister Marie-Josée Jacobs expanded the missions of the service with more particular emphasis on promotion of the rights of the child and social protection of children. The services can be grouped as follows:

(a) Emotional and relational development

443. These concern initiatives for supervision and training to promote the personal development of the participants, their psychological and emotional

development, emotional faculties, psychosexual balance and ability to relate. At present, such projects are offered in the form of courses, seminars, encounter groups or residential weekends by various services such as Action Familiale et Populaire, Familjencenter CPF and the Luxembourg Movement for Family Planning and Sex Education.

(b) Parental training and consultation

444. It is indispensable that parents should be able to benefit in their mission of education from specific services of reception, listening, training, guidance and assistance. This mission is often assumed informally at reception centres, day centres and residential homes. Organizations such as the Luxembourg Movement for Family Planning and Sex Education, the Liewensufank Initiative, the Familijencenter CPF and Action Familiale et Populaire are developing specific initiatives in this domain. The initiatives of the Familjencenter CPF in particular should be noted. For 15 years, this service has been distinguished by its diversified activities in the area of emotional development and relationship training. In 1995, nearly 500 young couples attended 57 marriage preparation courses, given by a team of more than 100 volunteer workers.

445. There are grounds for believing that an increasing number of families are at risk of being cut off from their roots and living very isolated from their social environment. An impressive number of families are single parent groups; at the same time, the average number of children per family has decreased sharply in the last few years. It appears to be difficult to generally establish educational principles recognized and shared by all. Against this background, many parents feel isolated, helpless and bereft. These groups offer them the chance to have interesting activities with their children, meet other parents, exchange experiences and meet experts with whom they may but do not have to consult individually. In the domain in question, special mention should be made of the projects undertaken by the non-profit organization "Liewensufank Initiative".

446. Likewise, the specific contribution of socially educative consultation and training through the various media should be emphasized. According to certain statistics, children aged from 6 to 12 years look at television for 30 hours per week on average. The videos and personal computers in many homes and video games give children access to the widest variety of information, films or games. The evolution of the media is spectacular and the vast majority of parents, teachers and educators are no longer able to keep up with this evolution, appreciate the quality of what is on offer and define principles for utilization. This is, for example, the mission of the non-profit organization "Info Video Center". It offers an audiovisual documentation service in Luxembourg and Diekirch. The service makes video cassettes, educational and documentary films, video recorders and players available to families, schools and socio-educational institutions. It regularly organizes meetings of parents, instructional films for leaders of children's groups, a cultural week for children and parents (Kucke, Liese, Spillen), and conferences and seminars open to a wider public. A new section of the service has been started to better examine and present the interactive media.

(c) Socio-familial and socio-educational assistance in an open environment

447. Many experts speak of families at multiple risk to describe family communities facing a variety of difficulties at the interpersonal, professional, financial and social levels. Other families have to cope with more circumstantial difficulties due to unforeseen events or exceptional circumstances. Yet other family communities have to take on board problems with their children that they are no longer able to manage alone. Social, socio-familial or socio-educational intervention in an open environment may consist in action to prevent the break-up of the community, encourage a process of restructuring, ensure the autonomy of the family, delay or prevent measures of placement, provide relief for adults submerged by events and enable them to assume their responsibilities. In this context, we would mention the services provided by Aide familiale-Aide senior, Omega 90 or Kriipskrank Kanner.

448. Aide familiale-Aide senior offers home help services to families, handicapped or sick persons and the elderly. In 1995, in the way of family assistance, 15 096 hours of support were given by 19 persons to 287 families.

449. The initiatives of Omega 90 offer actions for comprehensive management of the dying and their families. Actions of assistance may be of a psychological, social, moral, spiritual and medical nature. The places in which the association intervenes are the family home, socio-familial or medico-social institutions, gerontology centres or hospitals. For some years, Omega 90 has been offering training in palliative care and accompaniment to nursing staff in hospitals, home care services and care homes. Since 1991, 40 volunteers have been trained, 30 of whom are more or less regular companions in the different institutions. The role of these persons is to contribute to the social and emotional comfort of patients and those around them through their attentive presence. The volunteers are part of the care team and should be integrated into it. The association employs three permanent staff.

450. In the same context, socio-educational initiatives to supervise children outside school hours should be mentioned. These comprise a range of very diverse initiatives providing less formal and more circumstantial supervision of children living in families outside school hours: learning support, holiday activities, play afternoons, lunch canteens... The reasons for participation are very varied: occupational demands on parents, momentary absence of parents, helping parents out in difficulties, meeting with other children, interest and pleasure of participation, objective of socialization. Initiatives of this kind are being undertaken by many associations at national, local and communal levels. The initiatives of the women's associations Foyer de la Femme, Action catholique des femmes du Luxembourg and "Mammen hëllefe Mammen" may be mentioned as examples.

451. The many initiatives of ATD Quart Monde may be placed in the same context. Created in France in 1957 by Father Joseph Wresinski, himself a child of poverty, ATD Quart Monde established itself in Luxembourg in 1977. The Movement from the outset saw culture - understood in its broadest sense - as an important element in combatting poverty. And so the Quart Monde House of Culture was opened in Luxembourg in 1990. We will mention just two of the activities of ATD Quart Monde:

(a) Quart Monde University. This sets out to be a meeting place for people of different origins, a place of training, a place for transmission of the experience of the poorest and a place in which it is possible to bring about change. In 1995, about 40 adults took part in seven meetings organized at the Quart Monde University;

(b) Street library. The objective is to bring culture to disadvantaged children. Through the children, the street library enables the facilitators to meet the families. In 1995, workers went out to meet disadvantaged families in one neighbourhood in Luxembourg City and one neighbourhood in Differdange.

452. Finally, the actions of the services to prevent debt deserve to be emphasized. These are run by the Luxembourg Red Cross and the Luxembourg League for Medico-social Prevention and Action, and by the non-profit organization Inter-Actions Faubourgs. These services have various missions. First of all to offer advice to households getting into debt on how to improve their situation and discharge their liabilities. In this connection, the services work in collaboration with the various social services. A second mission is the information and training of social workers on the question of debt. Finally, the services also act at the preventive level.

(d) Facilitation, holidays and socio-family recreation

453. The services concerned take various initiatives for recreation and holidays. They facilitate and lead projects characterized by a general atmosphere of recreation, creativity and communication: traditional spa treatments or holiday camps, sports weeks, adventure or discovery holidays, weekend meetings and exchanges. Most of the services concerned run holiday homes, meeting places and activity facilities which they also make available to other services. Through their initiatives, these services address a very diversified clientele: children, young people, families, the disabled. Examples that may be mentioned are the initiatives of Caritas-Youth and Families, the Luxembourg Red Cross, Foyer de la Femme, INFOPLA and Action Familiale et Populaire.

454. Alongside these initiatives of a sociopolitical, sociocultural or humanitarian nature, the Foyer de la Femme runs educational and family services to whose costs of operation the State contributes through a contractual agreement. In 1995, the holidays service took 563 children and young people for holiday stays in Belgium, Switzerland, Italy and Spain... These children were supervised by more than 150 volunteers. These staff were trained at practical training courses and training weekends.

455. In 1995, the holidays service of the Luxembourg Red Cross organized 17 residential or camping holiday camps for children and young people between the ages of 4 and 17 years, taking 567 children. They were supervised by 129 volunteer monitors. These holidays in Switzerland, Belgium, Luxembourg, France and the Netherlands were related to specific themes. The school camps (classes in the mornings and recreation in the afternoons) were held in the three holiday homes of the Luxembourg Red Cross.

456. Caritas-Youth and Families operates several lines of activities:

(a) A holiday service and an activities service: conception, planning and organization of holiday camps for children, young people and families. In 1995, the service enabled more than 700 children and young people to go to some 35 holiday camps in five countries. Family holidays were also arranged. In 1995, a total of 864 people took part in the activities of the holidays service which were staffed by 226 people;

(b) Activities service: this service organizes "fun weekends" for children. In 1995, there were nine weekends with 110 participants supervised by 34 facilitators;

(c) Social action in the open community: running the youth meeting centre "Moskito" (station district, Luxembourg City);

(d) Training and supervision of volunteer facilitators;

(e) Running of two holiday and leisure activity centres.

(e) Telephone helplines

457. These services offer a telephone listening service to people in distress. People, and children in particular, may be unable to go to direct consultation services. In other situations, they may feel psychologically incapable of taking such a step or be in situations of urgent mental distress that can push them when desperate to suicide. In response to all these situations, SOS-Détresse and the Kanner-Jugendtelefon offer telephone reception and listening services. In 1995, SOS-Détresse received 2,717 calls, of which 1,052 were in the evening and 1,265 in the afternoon. The majority of these calls were from women. The subjects mentioned included marital difficulties, isolation and loneliness, mental health problems, family difficulties, dependency on the part of the caller, difficulties between parents and children, somatic health problems, work problems and economic difficulties, sexual problems, suicide, AIDS. The activities of Kanner-Jugendtelefon are presented in chapter VI.H.2.

(f) Family mediation

458. This is a kind of psychosocial accompaniment of families facing new situations, going through times of conflict and crisis or having to cope with phases of break-up. The form of mediation is indicated whenever decisions that are taken have to be assumed by members of a family community. In a context characterized by affective and emotional aspects, mediation helps the individuals concerned to work out the elements of future understanding, settling amicably their present differences and to the extent possible their future relations. Mediation leads to a protocol of understanding set out in writing, signed by the parties in dispute and countersigned by the mediator. Mediation respects the needs, emotions, judgements and decisions of the partners. It differs from psychoaffective counselling in that it does not "go over" them again. If this is necessary, it is for the mediator to point the parties concerned towards a relate counselling service.

459. Mediation is a precious instrument for promotion of the rights of the child. It helps to better protect the interests of children in so far as it helps adults to cope more consciously and responsibly with new family situations. Mediation offers the opportunity to listen to the child and give him

a more active, conscious and responsible part in the processes of appraising the consequences of new family situations (promotion of active participation by the child).

460. At present there is no mediation service in Luxembourg. Initiatives of this kind are being developed by UNICEF and the Pro Familia Foundation.

(g) Relate counselling

461. These services take a psychological type of approach. This is a form of accompaniment of individuals, couples or families confronted with personal crises or conflictual relationships: clarification of commitments or affective experiences, depression, anxiety, guilt, loneliness, difficulties with social contacts, education problems, generation conflicts, professional difficulties, suicidal thoughts... With their "clients", counsellors initiate approaches of listening, evaluation, clarification, and confrontation with self. Relational, psychoaffective and psychotherapeutic counselling is offered today by the family planning services, Action Familiale et Populaire, the Familjencenter CPF, the non-profit organization Liewens-Partner-Familjeberodung and the Luxembourg League for Medico-social Prevention and Action.

462. In this same context, we would draw attention to psychodynamic interaction groups. These groups often have the same objectives as relate counselling services. Rather than meeting with clients individually, as couples or in families, the counsellor/therapist works with a group of 5 to 15 persons. The exchanges and relations that take place between the members of the group constitute an important sector of psychotherapeutic or sociotherapeutic intervention.

463. We would mention the initiatives of the association "Liewens-, Partner- a Familijeberodung". In 1995, 231 persons were seen (159 women and 72 men). 164 individual consultations (1 259 hours) and 46 consultations with couples (310 hours) took place; 453 telephone consultations were recorded. The service was sought by people with problems/ disturbances including problems in their couple, depression and loneliness, feelings of inferiority, separation/divorce, sexual problems, drugs problems, lack of social contacts, debt, psychosomatic disorders...

464. In the same context, we would mention the initiatives of the Luxembourg Red Cross "Relais" psychotherapy service which is available to young people of 12 to 22. It offers extra psychotherapeutic treatment in complement to the institutional socioeducational supervision in which the young people in question are placed. The service provides counselling and guidance for young people with severe psychological problems. In 1995, 66 young people were seen by the service. 30 young people came for individual therapy, 17 for combined therapy (individual and family) and 19 for family therapy. During the last reporting period, the service conducted 533 individual sessions, 109 family sessions and 58 consultations with institutions in which these young people are living.

465. The Neit Liewen service offers various forms of help and accompanying support to persons with problems in the situation of pregnancy and the birth of a child: social aid and assistance, psychoaffective work, legal counselling, technical assistance. In this context we would stress the initiatives of

psychoaffective counselling. During counselling sessions the following situations were raised:

(a) Unwanted child: conflict(s) over decisions for abortion, anonymous delivery and fostering of the child;

(b) Marital conflicts: where the arrival of the child exacerbates latent conflicts;

(c) Risk pregnancy: risks to the mother as well as the coming child, either for physiological reasons (repeated miscarriage, sterility, drug addiction, illness) or psychological reasons (anxiety or psychosis on the part of the mother...);

(d) Still births: bereavement support;

(e) Abortion: bereavement support.

(h) Psychological and social assistance to neglected or ill-treated children and their families

466. The number of new cases each year of children abused or neglected (abuse by omission) is estimated to be about 200. No single cause necessarily implying that abuse will follow can be invoked, but rather a plurality of factors which may, in combination, lead in situations of conflict to violence on the part of parents. There are bodies which try, if a case of abuse becomes known, to help parents to learn to settle their conflicts by means other than violence. Adequate help could limit the psychological disturbance of the children. In this connection, mention should be made of the activities of the Luxembourg Association for the Prevention of Cruelty to Children (see chapter VI.H.2).

C. School medicine

467. The Act of 2 December 1987 to regulate school medicine defines school medicine as "the series of preventive medical measures and medical examinations carried out during schooling by the school medicine services to maintain surveillance of the health and promote the well-being of the pupils" (art. 1, para. 1). These measures and examinations comprise: systematic screening and monitoring tests and measurements; systematic medical examinations; health checks complemented if necessary by social checks; dental examinations. The Grand Duchy regulations of 21 December 1990 determining the content and frequency of school medicine measurements and examinations also determines their periodicity in accordance with a pre-established plan for each type of school. All school pupils, apprentices and students in pre-school, primary, post-primary or higher education, differentiated education or vocational training, organized in a public or private establishment, in an enterprise or in the home, are subject to school medicine measures and examinations. The provisions relating to school medicine examinations do not apply to pupils at the European School, in-service training or adult education (art. 2). The measures and medical examinations to which the school pupils and students mentioned above are free of charge for those subject to them.

468. Surveillance in the school environment comprises systematic tests and measurements and medical examinations at different stages throughout schooling.

Depending on the pupil's age, examination focuses on the physical aspects of health (regular medical examinations) or the overall aspect of health with its physical, mental and social components (health checks) in which education for health is particularly important. There are special provisions to allow for modulation of the frequency and nature of school medical examinations in order to meet the specific individual needs of pupils.

469. The legislation governing school medicine takes account of the evolving health needs of the children and young people of today. It has established structures favouring a multidisciplinary approach to health problems. Medical surveillance is no longer limited merely to the detection of physical deficiencies. It is concerned with the well-being of pupils and to listen to their worries, school difficulties and difficulties with relationships. Specialized education for health counselling tries to guide pupils towards behaviour conducive to maintaining and promoting health.

470. On the occasion of health checks, scheduled for certain key ages and stages in children's school career, there are meetings for concertation with the psychologists and teachers of the Educational Psychology and Guidance Service (see chapter VIII.H) to help pupils to overcome their difficulties as best they can. A social worker or social community social worker comes to the assistance of families in cases of need.

471. Subjects of concern frequently reported at secondary and technical secondary schools are poor posture with scoliosis and kyphosis, obesity, under-age alcohol consumption, and problems inherent in school transport with pushing and the risk of accidents in scrambling to get into buses.

472. School medicine is carried out by teams comprising school medico-social professionals approved by the member of the Government with responsibility for health (art. 6). These teams are composed at least of one general practitioner or paediatric specialist, heading the team, one dentist and one social hygiene assistant, and may be complemented as needed by other health and education professionals (art. 7).

473. Pupils having reached the age of majority, the parents or guardians of minors and, at their request, the attendant physician are informed of the results obtained and the measures proposed. If the parents deprive the child of the benefit of these measures, they are sent reminders. Article 458 of the Penal Code stipulates: "Doctors... and all other persons in whom, by reason of their status or profession, secrets are confided, who, except when they are called upon to give evidence in justice and the law requires them to divulge these secrets, reveal them, shall be sentenced to imprisonment for a term of 8 days to six months and a fine of 100 francs to 500 francs." Without prejudice to the provisions of this article, the physician communicates, either to the school head or teacher in charge of post-primary pupils, or to the class teacher, the practical measures to be taken following their medical examination to enable pupils to participate in their lessons in the best possible conditions. In the interest of health and the school situation of the pupils, the school medico-social teams collaborate with the school commissions within communal administrations and the specialized services of the Ministry of National Education (art. 8).

474. In cases of emergency, particularly in epidemics, communicable diseases or premises that are unhygienic or dangerous, the physician in charge of the service refers to the Director of Health (Ministry of Health).

475. When their living conditions, behaviour or state of health so justify, the doctor in the school medicine team may subject pupils to one or more additional medical examinations, even if they have already had medical examinations in the course of that school year (art. 3).

476. Persons vested with parental authority over children who are minors, and pupils who have reached the age of majority, are informed in due time of the nature and periodicity of the proposed medical examination. They are also informed that they can accompany their child to the first health check. When an examination has to be carried out pursuant to article 3 mentioned above, the reasons for this examination are communicated to them (art. 4).

477. Systematic screening and monitoring tests and measurements comprise:

(a) A tuberculin test;

(b) Weight and height measurement;

(c) Sight, hearing and speech tests;

(d) Routine urine analysis for glucose, albumin and blood;

(e) Check on immunizations (art. 5).

478. Systematic medical examination comprises, in addition to the systematic screening and monitoring tests and measurements specified above, a full clinical examination carried out by the doctor in the school medico-social team, and personalized health education advice (art. 6).

479. Health checks comprise, in accordance with article 7, clinical elements, psychological indications and indications relating to school work where these are in the interest of the pupil, and personalized health education advice. A social check is made, where necessary, to complement the health check.

480. Medical results are recorded in each pupil's school medical record book. What is written is left to the personal judgement of the health professionals. In regard to psycholcgical and work assessments, only the date and the meeting for concertation with the professionals concerned are mentioned. School medical records are confidential and entrusted to the keeping of the paramedical staff of the school medico-social team. In cases of change of domicile or school, they are transmitted to the school medico-social team that will continue follow-up of the pupils. When they leave school, the school medical records are handed over to the pupils on request if they have reached the age of majority or to the person with parental authority if they are minors.

481. School medical surveillance of pupils in secondary and technical secondary education is the principal mission of the Division of School Medicine in the Directorate of Health. As from 1994/95, school medical surveillance was extended to students in further education who are henceforth attached to technical secondary education.

482. A study was carried out during the school year 1992/93 on the number of reports returned to the Division of School Medicine of the Directorate of Health. When parents have been informed by report of any anomalies found in the course of school medical tests or examinations, the attendant physician is consulted. He receives this report and signs it before it is sent back to the Division of School Medicine. This makes it possible to see whether or not a suspected diagnosis has been confirmed and whether any treatment has been undertaken.

Total number of reports sent out: 2,254
Total number of reports returned: 863, or 38.2%

483. Depending on the pathology reported, response rates were higher:

reaction to the tuberculin test: 55.5%
mycosis: 100%
sex organs: phimosis: 16.6%
varicocele: 63.6%
cryptorchidism: 50%
hypertrophied thyroid: 56.2%
heart: murmur: 75%
albuminuria: 80%

Only a quarter of the notices reporting overweight were returned.

484. During the school year 1994/95, pupils underwent two different types of medical examinations in the secondary and technical secondary classes, that is, health checks on the one hand and systematic medical examinations on the other, according to the schedule of examinations set by the Grand Duchy regulations of 21 December 1990 determining the frequency and modalities of school medicine tests and examinations (see annex 7).

485. In a working group including social hygiene assistants from different constituencies in the country, the school doctors of the commune of Luxembourg and representatives of the Division of School Medicine, new statistical record sheets intended to furnish more pertinent data on the state of school pupils' health were devised. These record sheets were pre-tested before being brought into use.

486. The school dental service has the following missions:

(a) To detect dental caries and study its frequency according to the age of the children and in different parts of the country;

(b) To detect dental malpositioning;

(c) To record the status of oral hygiene;

(d) To improve, to the extent possible, education for oral health.

Obviously the paramount objective of school dental examinations is to combat dental caries, a scourge that is far from being eliminated.

487. During the school year 1994/95, more than 13,400 children were examined in the twelve cantons of the country. It should be noted that some large communes have their own school dental service.

488. Children are examined once during their pre-school education, then annually throughout their period at primary school. The data gathered are codified on a record that will follow them throughout their school career, thus showing the evolution of their oral health status. If necessary, a report addressed to the parents may be given to the child. According to Ministry of Health statistics, there can be said to be continuous improvement in the oral health of our children, although dental caries is still all too common a disease. In 1974/75, 68.33% of the pupils examined needed treatment, while in 1994/95 this rate is only 24.58%.

D. Actions in favour of disabled children (art. 23)

1. General principles

489. Policy on disabled children is aimed at greater integration of children with disabilities into society so that, each according to their possibilities, they can participate in social life on an equal footing. Given that disability, whether physical, mental or psychological, is prejudicial to full exercise of the rights of the child, and diminishes or inflicts inferiority on the scope for initiative, free choice and social integration both of disabled persons and those directly around them, integration and access to autonomy have been defined as the principal objectives of socio-familial action for disabled children and their entourage.

490. These objectives can only be achieved if three major principles are observed. These are:

(a) The principle of a differentiated approach to the problem. All forms of aid and action are differentiated in regard to and in the light of age, personality, the socio-familial, school, occupational and therapeutic environment of the child, and the nature and duration of the disability;

(b) The principle of normalization. Legislative and structural provisions for aid are designed to adapt, reorganize or create the resources, therapies, services and establishments for care, and social, educational and vocational institutions able to take disabled people and give them access to their rights to participation and expression of both normal and special needs;

(c) The principle of solidarity. Normalization requires a general consensus of all citizens. The very term solidarity implies shared responsibility by the whole of society, with distribution and sharing of actions, burdens and responsibilities.

491. The non-profit organization Info-Handicap, which brings together 21 associations working in the field of disability, exists to systematize and centralize data, information and addresses relating to disability and to give guidance on request. In 1993, the Ministry of the Family published in collaboration with this centre a first guide to disability, a document presenting in clear and easily accessible summary form the information that might be needed by people with disabilities. In 1995, an update in three volumes

(0 to 4 years; 4 to 18 years; 18 years and over) was produced in a bilingual version.

2. Prevention, screening and early rehabilitation

(a) Services dependent on the Ministry of Health

492. The principal missions of the orthoptic and pleoptic service are early detection of visual deficiencies and the rehabilitation of sight.

493. Screening for visual disorders in young children was carried out in the course of 1995 in the country's dispensaries and at consultations for children aged from six months to four years. A total of 9,196 children were examined; the total number of examinations was 10,149 (more than 1,000 children were examined more than once). The number of children whose examination was unremarkable was 8,447 (91.85%). The number of children with some pathology reported was 749 (8.14% of the children examined).

494. Screening for visual disorders in pre-school classes covered 7,403 children in 1994/95. 497 children were noted as absent (6.7%). The total number of examinations carried out was 6,940, some children having been seen twice. In 5,942 cases examination was unremarkable (86% of the children examined); 870 cases with some pathology were detected (12.6% of the children examined).

495. The missions of the audiology and phonology services are to detect, prevent, manage and correct disorders that may become apparent in domain of communication. The fields of activity are audiometry, hearing aids and orthophony. The first objective must be to offer the population effective structures for screening so as to be able to effectively prevent the consequences that could result from undiagnosed disorders of communication.

496. Screening tests comprise audiometric tests and orthophonic tests. Mass audiometric screening is carried out in populations of the following age groups: children of 6 months; children aged 2½ years in the framework of their "30-month health check" (see below); children aged 5 years in the framework of school audiometric tests. Individual screening tests are either diagnostic tests or tests to confirm the findings of previous audiometric tests. These tests are generally done at the request of the actual patient, the doctor or a guardian.

497. Orthophonic tests are carried out on children aged 30 months to

(a) detect disorders of communication; pathological retardation in the development of language and speech; hearing problems; and

(b) prevent the damage that could result from delayed treatment and ignorance of a problem.

Relational disorders, behavioural disorders, and problems of integration at school are just some of the problems that may originate in retarded language development or an impaired chain of communication. Unfortunately in the year 1995 one twelfth of the population concerned was not invited to screening, for lack of sufficient orthophonists in the services. This situation in no way reflects the concept we have of general screening intended to cover a complete target group.

498. Therapeutic interventions comprise the "30-month health check", orthophonic treatment for children and hearing aids. In the framework of the "30-month health check" the orthophonists carry out interventions relating to the communication disorders identified. These are of a varied nature and comprise long term guidance of parents, short term guidance of parents, and direct management of children. The most serious disorders, requiring the opinions or collaboration of other specialists, are referred to the relevant instances and services. Pursuant to the interministerial agreement of 13 May 1986 between the Ministry of Health and the Ministry of National Education, children of compulsory school age deficient in oral communication referred by the audiology and phonology services (SAP), with the consent of the persons responsible, to the Speech Therapy Centre, with the exception of those for whom management by the SAP is requested by a doctor.

499. The children taken in charge consult for a whole variety of problems: retarded language and speech development; stuttering; dysgrammatism; articulation difficulties; deglutition problems; orthodontic problems; raucousness.

500. To meet needs and at the request of consultants, a new form of group therapy has been created during the current period, with the name "Babbelgrupp". Within this structure, certain children with severely retarded language and speech development, or speech inhibition, are seen regularly for treatment.

(b) Private services covered by agreements

501. Early intervention plays an essential role in measures of rehabilitation to promote the autonomy and integration of the disabled. The aim is to prevent deterioration and secondary effects of any deficiency as soon as possible. Early assistance denotes measures to manage the problems of children from infancy up to school age. Early assistance is particularly important during this period of life. Early assistance not only involves care of the child, but also guidance of the parents concerned. Since the birth of a child at risk or with a disability often places the balance of the entire family in jeopardy, early assistance aims to support parents to help them to better assimilate their personal situation and help and advise them in their educational task.

502. In Luxembourg there is no overall scheme for the early management of children at risk or with disabilities. The present organization and functioning of the early assistance services are the result of individual efforts of early assistance in the last decade by professionals and/or the parents concerned. There are at present three services specialized in early rehabilitative care: These are the Early Orthopedagogic Intervention Service (SIPO), Hellef fir de Puppelchen, and the Early Rehabilitation Service. These three services try to stimulate the development of children who are at risk, retarded or handicapped as early as possible, giving priority either to a socioeducational approach or to medical therapeutic work. Thus the Early Orthopedagogic Intervention Service, with a service agreement with the Ministry of the Family, lays emphasis on overall educational stimulation of the child's capacities while stressing the importance of the family environment. The Early Rehabilitation Service and Hellef fir de Puppelchen, both with service agreements with the Ministry of Health, work first and foremost in medical therapeutic rehabilitation, but also provide educational management in play groups.

503. It should be mentioned that the two services with agreements with Ministry of Health provide comprehensive development checks that take account of a child's medical, social and psychological problems. The SIPO can carry out orthopedagogic assessments, that is, evaluation of a child's capacities and interactions with the environment. Medical, neurological and other examinations are carried out by external consultants.

504. With regard to admission, most of the children referred to the two agreement services by the Ministry of Health are admitted at the explicit request of the attendant physician. Other children are referred through the social structures and the SIPO. However, admission of a child to SIPO is only done on the personal request of the parents who play an active role in the management provided by that service.

505. With regard to the target population of the three services, it may be noted that the children accepted are generally aged from 0 to 4 years. In certain specific cases, for example if there is no school supervision, the SIPO keeps children under surveillance up to the age of 6 years. Increasing numbers of children from deprived social environments and/or with relational difficulties are being referred to the early assistance services, often through social workers or juvenile judges.

506. In the early management system mention must be made of the services and institutions specializing in the rehabilitation of a particular function and at the same time providing early management. The Speech Therapy Centre and the Visual Deficiency Institute offer early rehabilitation in the child's home in addition to the educational management of children and adolescents with speech disorders and hearing impairments, and visual impairments, respectively. The audiology and phonology services and the orthoptic and pleoptic service, which function under the auspices of the Ministry of Health, provide respectively, in addition to measures of prevention and screening, management and rehabilitation of disorders of communication and hearing, and sight.

507. Apart from these services specialized in the early stimulation of learning or functional rehabilitation, the Benjamin Clubs subsidized by the Ministry of National Education and day centres governed by agreements with the Ministry of the Family take care of children with special needs. These services do sustained socio-educational work in child stimulation. Disabled or retarded children are managed in the framework of play groups. Activities are designed to improve the conditions for development and successful schooling of children at risk of later maladjustment (social and family environment). They go beyond the framework of educational guidance without expressly being aimed at rehabilitation. Psychological accompaniment and speech and motor rehabilitation support are guaranteed in case of need.

3. Day centres and homes

508. For many years the day centres for children covered by agreements with the Government have been taking children needing extra social care either because they have some physical or mental deficiency or because they are in some way retarded in their development. The day centres have credits that allow them to recruit extra personnel temporarily and to have recourse to external consultants. In principle all government day centres are available to take children needing social care, since those needing extra help are accepted in

places that are not open to other children. These children can thus be accepted without delay although there may a waiting list.

509. The results achieved over the years by the educational teams in the government day centres show clearly that if the integration of children needing extra care is carried out in collaboration with all the parties concerned, that is, the parents, attendant physician and specialized rehabilitation centres, day centres can be of valuable assistance to both the children and their parents.

510. Integration into homes helps to prevent children becoming marginalized. Children learn in the home, through many different daily situations and experiences, to discover, understand and accept the differences between them. Without trying to accomplish therapy, the educators try to stimulate the children in daily activities through offering support in the areas in which they have special needs. This integration also prepares the child and facilitates transition to school later on.

511. Parents, often unprepared for their children's problems, often find in educators people who are able to listen to them, advise them and support them in their concerns and help to alleviate their worries in their daily life.

4. Differentiated education

512. The institutes and services of differentiated education were established by the Act of 14 March 1973. This law enables the State to see that any children who, by reason of their mental, character or sensory particularities, are not able to cope with ordinary or special education, receive an education appropriate to their condition and/or situation. This law makes school compulsory for these children and establishes or permits the establishment of the centres, institutes and services needed to meet this obligation free of charge. With this law the legislator opted for a social conception of integration leading to the status of disabled adult.

513. Differentiated education is instituted after analysis of each pupil's particular situation. As long as positive development seems possible in the circuits of pre-school and primary education, no child is sent to a centre or specialized institute of differentiated education. Blind or poorly sighted children and children with mild degrees of physical disability are educated in normal schools. Many children with speech disorders receive ambulatory treatment or go to normal classes whenever possible. Differentiated education favours experiences of exchange, cohabitation and coeducation in which children with disabilities live and learn together with "normal" children and are thus able to benefit from common activities as well as receiving special teaching.

514. At the beginning of the school year 1993/94 there were some 1,200 pupils and young people in 22 centres and institutes. These persons were being educated and taught by about 300 full-time qualified staff. Of these 1,200 persons, 347 were of compulsory school age, that is, 4 to 15 years, and were enrolled in regional differentiated education centres and specialized institutes of differentiated education. The others were adolescents, young people or adults with a disability or specific problems above compulsory school age attending basic vocational training centres, rehabilitation centres or sheltered workshops.

515. The Speech Therapy Centre, established in 1968, offers its early education service to children aged from 1 to 4 years. By joining early groups many children avoid the need for admission to special education. Children with severe auditory deficiencies and severe retardation in the development of language and speech are admitted to this centre. The aim of speech therapy is to prevent the need for the children to be sent to special schools and the speech therapy classes can be regarded as transition classes.

516. In accordance with its initial conception, differentiated education is organized in centres and institutes specialized in the management and care of specific deficiencies and disabilities: speech and hearing disabilities; visual deficiencies; severe cerebral infirmity; physical and motor disabilities; mental deficiency; serious behavioural disorders; autism and psychoses.

517. The national medico-psycho-pedagogic commission, an interministerial organ created by the law of 14 March 1973, formulates, after reviewing all the data on the problem child in question, a recommendation for the guidance, help or support of the parents. It also constitutes the referral instance for everything to do with pilot experiments and attempts to integrate children with disabilities, deficiencies or specific problems into ordinary pre-school or primary education.

518. Alongside their strictly educational work, two specialized services in differentiated education undertake screening, diagnosis and management of children with problems and counselling of parents as well as concertation and cooperation with teachers. The child guidance service, established in the framework of differentiated education, serves a very diverse clientele. As well as handicapped children there are children with slight deficiencies, behavioural disturbances and learning difficulties. This essentially psychological service has become a psycho-educational support service that goes beyond the institutional limits of child disability. There are at present about 20 regional consultation centres functioning throughout the country that collaborate with the members of the college of inspectors, pre-school and primary school teachers and with the directors and staff of the centres and institutes of differentiated education.

519. In order to ensure, in all cases where appropriate, the integration of children with disabilities into ordinary education and their education alongside other children of their age, the differentiated education ambulatory rehabilitation service has been functioning since the start of the school year 1992/93. This service is also available for children in ordinary education who may be in danger of disintegration at school on account of specific serious problems or severe learning difficulties.

520. As well as its specific functions, such as class and individual interventions, differential and individualized teaching, management of sick children; orthophony, dyslexia, dyscalculia and psychomotricity treatments; help to parents, teachers and educational personnel and classroom assistance, the ambulatory rehabilitation service offers counselling and support to parents' associations which defend the interests of children and adolescents with disabilities.

521. The Act of 28 June 1994 on integration into education provides for two new possibilities for schooling that ensures integration for these pupils: full

integration of children with disabilities into ordinary pre-school, primary or post-primary education, with, if necessary, assistance from differentiated education personnel; and partial integration of children with disabilities into the regional centres or specialized institutes of differentiated education, with complementary attendance, for certain activities, at classes in ordinary schools.

522. The institutions for differentiated education, known as basic vocational training centres, were set up in 1984 and 1985. They were envisaged at the outset as school institutions that would offer and ensure the provision of vocational training for young people with disabilities. They were eventually destined to take young people who had completed their compulsory schooling in differentiated education centres and were ready to receive basic vocational training. Many of these centres have been partly converted into sheltered or rehabilitation workshops as the vast majority of these young people have stayed at the vocational training centres beyond their adolescence (18 years). Thus these young people, initially students in training, have been employed in various kinds of more or less productive work.

523. As well as the State vocational training centres there are sheltered workshops and rehabilitation centres for young people and adults with disabilities. These centres are run by private associations subsidized by the State and are there to take adolescents with disabilities after their compulsory education. The State vocational training centres and the private sheltered workshops take populations that are more or less identical and pursue the same end, that is, acquisition of an occupational training and insertion into work.

5. Occupational insertion of young people with disabilities into the labour market

524. The Act of 12 November 1991 on workers with disabilities stipulates in article A that the training, placement, rehabilitation and occupational integration of persons recognized as workers with disabilities are ensured by the disabled workers' service of the Employment Administration.

525. On 31 December 1995, two young people of 16 years and one of 17 years were recognized as "disabled workers" by the disabled workers' service. In law the status of disabled workers is acquired by victims of occupational injury or accident, war invalids and persons with a physical, mental or sensory handicap.

526. Disability is recognized by a commission on occupational guidance and classification. The director of the Employment Administration determines the measures to be taken for employment or reintegration into employment. The form and content of these measures, which may include participation in the payment of wages, participation in the costs of training, incentive or rehabilitation payments, adaptation of work stations or access to the workplace, or the provision of equipment for work, are stipulated by the regulations enacted by the Grand Duchy on 14 April 1992.

E. Aid and social welfare

1. Definition

527. Social action, social aid, social welfare or actions of solidarity consist in a set of material and psychosocial measures intended to improve the social situation of the population, a particular social group or individuals. These measures are organized and/or financed by public communities, private bodies, enterprises or individuals. They may be defined by laws and regulations and constitute citizens' rights, or they may remain highly discretionary. They are sometimes organized in a highly structured and rigid way, and sometimes in a very adaptable and flexible manner. The terms that are used vary and often convey the underlying philosophy of the protagonists: social action, social aid, public assistance, social welfare, good works, charity, psychosocial supervision, social insertion, fight against social exclusion, social relief, solidarity, social work, educational social work or family social work... Different terms are regularly used in Luxembourg without their meaning being closely defined.

528. Social action is essentially oriented towards the basic needs of individuals and family communities: housing, food, household appliances, furniture and other essential items; money and paid work; education and training; assistance and guidance; and functional relationships. The situation of poverty of a person or a household can be explained by individual factors: old age, illness, infirmity or disability, drug addiction and alcoholism, psychological problems and lack of motivation, lack of qualifications, unforeseen events... The immediate or micro-social environment may be the cause: break-up of the family nucleus, situation of violence and abuse, poverty and situations of exclusion from the family... Factors of a macro-social order may come into play: unemployment, inadequate housing, abuse of credit facilities, negative influence of the media, failing supervisory structures, "two-speed society" (Zweidrittelgesellschaft), lack of future prospects, absence of reliable social norms (Orientierungslosigkeit), climate of general insecurity... It is often the presence of several different factors that is responsible for the precariousness of the resources available and the risks of exclusion of particular individuals or families, or indeed of a whole group of the population.

529. Actions of solidarity are organized according to guiding principles that determine the resources invested and manner of approach to the "client". The main concerns shared by social workers in Luxembourg with their colleagues in neighbouring countries should be emphasized:

(a) Responsibilization of the persons receiving assistance. Actions of solidarity should aim to develop autonomy and get assisted persons to draw on their own resources; relief should above all be a stimulus to self-help;

(b) Competence of the persons intervening. It is not sufficient to mobilize "volunteers"; social workers must show proof of human skills as well as professional qualifications;

(c) Empathy and respect. Social workers must adopt an attitude characterized by respect, understanding, dialogue and partnership vis-à-vis the person assisted;

(d) Diversification of means of intervention. Social workers have a varied range of resources for action: financial support, access to welfare and guidance services, measures of social and professional reinsertion (work, housing)...;

(e) Vigilance in regard to the phenomenon of the "two-speed society". Our societies are at risk of "instituting" social situations in which the relative wealth of the majority of the population is assured at the expense of the relative poverty of a growing minority; the fight against social exclusion demands social action on a more global scale than the organization of individual relief;

(f) Concern with potential abuse. The organization of effective social action is based on the political and social acceptance of such measures by the majority of citizens; if only for this reason it is essential to remain alert to potential abuses of the assistance given without necessarily being able to prevent them all; it must be realised that the more the network of measures allows for effective, flexible and generous interventions, the greater the risk of potential abuse;

(g) Avoid instituting a Welfare State. This would run the risk of removing motivation and demobilizing those threatened with social exclusion;

(h) Subsidiarity of the State in relation to private initiatives. The initiative for and implementation of welfare projects is the responsibility of NGOs. The State participates in the financing.

2. The evolution of social welfare in Luxembourg

530. Before the First World War many social actions were carried out by the Church and its various organizations. It is important to stress the very strong presence of congregations of women, in the distribution of clothes, schools, soup kitchens, etc. The legislator intervened above all in the area of workers' protection, with initiatives deriving from the system initiated by the Prussian Chancellor Bismarck.

531. At the beginning of the XX century in a more liberal social and political context, the State and the communes launched initiatives that were more systematic. Two lay welfare organizations were created by law: the present Luxembourg League for Medico-social Prevention and Action and the Luxembourg Red Cross. A remarkable role of leadership was taken by the steel industry. In 1920 it began to develop its own works of social welfare, with housing, social welfare, medical care, vocational training schools, study funds, holiday homes, hospitals... In 1928 the first social worker was employed. The initiators of this action were the industrialist Emile Mayrisch and his wife Aline de St Hubert. It was characterized by an attitude of paternalism which made the enterprise into a sort of state within the State; in principle, the action was organized for the benefit of the company's employees only. The social withdrawal of employers in the 1960s left a gap that had to be filled by the State.

3. Poverty in Luxembourg

532. In 1995, 7.6% of Luxembourg households were below the threshold of relative poverty. For the sake of comparison: Norway: 5.8%; Belgium: 7.2%;

Germany: 10.3%; France: 12.6%; United States of America: 23.2% (source: Centre for Population, Poverty and Socioeconomic Policy Studies (CEPS)). With the help of various transfers of social security, 31% of households escape from relative poverty. The number of unemployed rose in February 1996 to 5,894 persons (3.4%). According to various estimates, the number of families in debt is around 5,000. In 1994, 4,622 households (6,809 persons) were in receipt of the guaranteed minimum income.

533. According to the CEPS studies, large families, lone women and elderly persons constitute categories of households particularly at risk of poverty or relative poverty. Among single parent families, it is mainly lone mothers with one or more children who have low incomes. In 1993, the average hourly wage of women was only 76.3% of that of men (70.6% in 1984). The gap widens with age (part-time work, career break, marriage, upbringing of children...). For large families, loss of consumption capacity is illustrated by the following table:

1 couple without children:	100.0
with 1 child:	-11.7
with 2 children:	-24.1
with 3 or more children:	-28.8

4. Principles of organization

534. In Luxembourg the solidarity of the community with individuals is manifested in a variety of ways:

(a) The social security system (illness, accident, old age);

(b) Family allowances (including an education allowance);

(c) Preventive medicine (school medicine, protection of pregnant women, premarital examination, infant consultations, etc);

(d) Measures undertaken in the framework of youth protection;

(e) Housing aid (individual aid to facilitate access to housing, housing associations, provision of accommodation);

(f) Unemployment benefit and back to work measures;

(g) Institutions and reception centres for various categories of "clients" (children, the elderly, people with disabilities, women in distress, persons with no fixed address...);

(h) National programme for the elderly;

(i) National programme for people with disabilities;

(j) Training and counselling services (psychoaffective or sociofamilial);

(k) Consumer protection;

(l) Minimum social wage;

(m) Social aid.

535. Social aid comes into play when the other social networks (in particular the social security) do not provide an adequate response to the problem: foreigners, refugees; people who have not contributed to the social security systems; unforeseeable situations of distress (natural disasters); "thorny" problems (break-up of family cells, abandonment of persons without resources, debt, isolation of the elderly...). The measures are oriented depending on the laws of Luxembourg, European directives and the recommendations or proposals of social workers. Social aid is managed in Luxembourg by the State, public administrations and the funds attached to them; communes, charities and foundations of public utility, private services governed by agreements with the State, and various associations. The preponderant role played by the Catholic Church in the history of our regions should be stressed.

536. The following are the agencies that intervene in the granting of financial assistance:

(a) The State and attached public services, funds and institutions:

(i) The national solidarity fund (Ministry of the Family) cf. infra;

(ii) Ministry of the Family

a. Solidarity Service
b. Commissariat for Foreigners

Reimbursement to communal administrations of maintenance costs for indigent Luxembourgers or foreigners;

Contributions to the health insurance system;

Relief following natural disasters;

Repatriation of Luxembourg citizens;

Various types of relief;

Reception and maintenance of refugees;

Relief to migrant workers;

(iii) Other ministerial departments

Education: grants to students

Health: spa treatments for delicate children; various grants;

(b) Communal administrations: social offices, cf. infra;

(c) Private charities, cf. infra.

537. Social guidance services are organized by the following institutions:

(a) The State, public services

(i) Ministry of the Family

a. Solidarity Service
b. Commissariat for Foreigners;

(ii) Ministry of Labour

a. Disabled Workers' Service
b. Social Service of the Ministry;

(iii) Ministry of Housing

a. Fund for Low Cost Housing (admissions to social housing);

(iv) Ministry of Justice, Department of Public Prosecution

a. Central Social Welfare Service;

(v) Ministry of Social Security

a. National Social Action Service (beneficiaries of guaranteed minimum income);

(vi) Ministry of National Education

a. Guidance Service (school children aged 6 to 12 years)
b. Psychology and Educational Guidance Service (school children over 12);

(b) Communes (most important localities) (Luxembourg, Esch/Alzette, Dudelange, Differdange);

(c) Organizations of public utility: Luxembourg League for Medico-social Prevention and Action and the Luxembourg Red Cross;

(d) Large enterprises: ARBED, Luxembourg Railways, European Communities;

(e) Specialized social services

(i) by category of clientele

(ii) by category of social problem

(iii) by age group

a. limited presentation in time
b. "optional" nature

(f) Social services attached to reception centres (homes): social follow-up of former residents and/or relatives.

538. In regard to housing, the following initiatives should be recalled:

(a) Individual aid (Ministry of Housing), to facilitate access/acquisition;

(b) Housing associations (communes in collaboration with the Ministry of Housing);

(c) Provision of accommodation, social rents (Fund for Low Cost Housing, communes).

5. Poverty Act

539. The Act of 26 July 1986 (a) establishing the right to a guaranteed minimum income; (b) establishing a social action service; (c) amending the Act of 30 July 1960 concerning the establishment of a national solidarity fund, is the linchpin of the effort to combat poverty and social exclusion in the Grand Duchy. Since it was passed the Act has been amended several times and the Grand Duchy has enacted several sets of regulations to govern its modalities of application. The objectives of the Act can be summarized as follows:

(a) To ensure a decent life for all citizens, guaranteeing them minimum resources for subsistence;

(b) The Act creates a citizen's right, the right to appeal for solidarity when their income falls below the guaranteed threshold;

(c) The Act disregards the causes underlying the insufficiency of resources;

(d) There are two aspects to the social action foreseen in the Act:

(i) financial support (National Solidarity Fund (FNS));

(ii) socio-vocational guidance (National Social Action Service (SNAS)) with the objective of social and occupational reinsertion.

540. The conditions for granting of the guaranteed minimum income (RMG) are as follows:

(a) To be domiciled on the territory of the Grand Duchy and to have resided there for at least 10 years during the last 20 years (incompatibility of this condition with Community regulations);

(b) To be available to the labour market and ready to accept any appropriate job assigned by the employment administration;

(c) To be at least 30 years of age;

(d) To participate in complementary socio-occupational measures, with temporary assignment to work of public utility.

Exemptions:

Persons unfit for work (illness, disability): conditions (b) and (c)
Bringing up a child under 15 (for which family allowances are received): (b), (c)

Persons aged over 60: (b), (c), (d)

Bringing up a child who has not yet reached compulsory school age: (b), (c), (d)

Caring for a person with a severe disability: (b), (c), (d)

541. It should be noted that the residence qualification has been abolished for persons recognized as political refugees on the basis of article 23 of the Convention relating to the Status of Refugees and that its abolition is proposed for Luxembourg nationals in the Member States of the European Union (a bill is currently being drafted).

542. The amount of the allowance depends on the number of members in the domestic community and the incomes of the members of the community. The domestic community is defined as comprising all persons living in the same household who can be said to live on a joint budget. Exceptions: for example, elderly persons without resources living with their children...

543. The guaranteed minimum income to which a domestic community is entitled comprises:

For the first adult: 5,822 francs N.I. 100, i.e. 31,165 (index 535.29) francs

For the second adult: 2,911 francs N.I. 100, i.e. 15,582

For the third adult: 1,666 francs N.I. 100, i.e. 8,918

For each child: 857 francs N.I. 100, i.e. 4,587.

The guaranteed minimum income is augmented by a rent allowance of a maximum of 5,000 francs if the beneficiary has to pay rent for the accommodation occupied to a third party.

544. Means assessment is carried out in accordance with the following principles:

(a) Total gross income, capital and income from capital in respect of all persons living in domestic community with the beneficiary are taken into account;

(b) Certain categories of income are taken partially into account; an amount equivalent to 20% of the overall guaranteed minimum income of the household (exemption) is deducted from the income subject to exemption:

(i) occupational earnings

(ii) substitute or supplementary income (benefits, pensions, unemployment benefit, education allowance, maternity allowance...)

(iii) insertion allowance

(iv) maintenance paid by ascendants or descendants;

(c) The following are not considered as income:

(i) family allowance

(ii) back-to-school allowance

(iii) birth allowance

(iv) severe disability allowance

(v) care allowance

(vi) earnings of under-age children (up to the reference minimum social wage)

(vii) relief distributed by private charities;

(d) Deduction of resources (maintenance obligations of members of the domestic community);

(e) Capital (immediate conversion to life annuity of the total value of capital).

545. Other provisions:

(a) Insertion allowance. This is payable to beneficiaries of the guaranteed minimum income who accept a work assignment of 40 hours a week; the amount of the allowance is equal to the minimum social wage for an unskilled worker of at least 18 years;

(b) Social contributions:

(i) guaranteed minimum income supplement: affiliation to sickness insurance

(ii) insertion allowance: this is subject to the usual social charges;

(c) Transfer, seizure. The guaranteed minimum income supplement may not be transferred, seized or used as security;

(d) National Solidarity Fund (FNS). The guaranteed minimum income is paid by the FNS: the law provides for two procedures for appeal in first and second instance against the decisions of the FNS;

(e) Applications. Applications are received either by the FNS or by the social office in the commune of normal residence;

(f) Reimbursement. The law defines the conditions and modalities of reimbursement. It leaves open the possibility of registering a mortgage on property owned by the beneficiary.

546. Some statistics (source: National Social Action Service):

(a) Evolution in the number of beneficiaries:

Year	Households	Persons
1986	2,675	3,415
1990	4,226	6,079
1993	5,217	7,749
1994	4,622	6,809

In relation to the total number of households, the proportion of households in receipt of the guaranteed minimum income on 31.12.94 was 3.1% of the total resident population, the number of individual beneficiaries being 1.7%.

(b) Structure of beneficiary households (from the FNS file only, for 1994)

Single adult without child: 67%
Single parent families: 19%
Couples with children: 8%
Other: 6%

(c) Age of beneficiaries (1994) (taking account of all beneficiaries)

0-9 years: 19%
10-19 years: 13%
20-39 years: 33%
40-59 years: 24%
60 and over: 11%

(d) Evolution of average age

1986: 48.06 years
1990: 41.21 years
1994: 32.46 years

(e) Sex of beneficiaries (1994)

Male: 46%
Female: 54%

(f) Citizenship of different groups of countries (1994)

Luxembourg: 76.6%
European Union: 21.2%
Other foreign countries: 1.3%
Nationality not known, stateless: 0.9%

(g) Evolution of the cost of the guaranteed minimum income

1986: 279 million francs
1990: 939 million francs
1994: 1,499 million francs

6. The National Solidarity Fund (FNS)

547. The National Solidarity Fund (FNS) was created by the amended Act of 30 July 1960. It is a public entity with civil personality. It is administered and managed by a directing committee whose eight members are appointed by the Government. The FNS grants the following allowances:

(a) Guaranteed minimum income (cf. supra);

(b) Special benefit for persons with severe disabilities (law of 16 April 1979):

(i) 2,565 beneficiaries in December 1994; expenditure of 394 million francs in 1994;

(ii) amount:

1,322 N.I. 100, i.e. 7,077 francs for beneficiaries under 18 years

2,644 N.I. 100, i.e. 14,153 francs for beneficiaries over 18 years

(iii) conditions of benefit:

a. severe disability (one or more physical or mental functions definitively diminished; person requiring assistance and care permanently)

b. domicile in the Grand Duchy, resident in Luxembourg for at least 10 years

(c) Compensatory benefit (law of 13 June 1973)

(i) award of new benefits suspended in 1989

(ii) 3,480 beneficiaries in 1994; expenditure of 120 million francs

(iii) precursor of the guaranteed minimum income

(d) Advance and recovery of maintenance allowances (law of 26 July 1980)

(i) 144 recipients at 31 December 1994; expenditure of 27 million francs

(ii) conditions of payment:

a. domicile in Luxembourg and resident for five years

b. fixing of maintenance allowance by judicial decision

c. proof that it has not been possible to obtain recovery through a channel of execution in private law

d. difficult economic situation

(e) heating allowance (regulations of 18 February 1983)

(i) 58 recipients in 1994; expenditure of 500,000 francs.

7. Responsibility of the communes

548. Legislation:

(a) Acts of 7 October 1796 and 4 July 1799 on hospices;

(b) Organic regulations of 11 December 1846 on charity offices;

(c) Act of 28 May 1897 on the domicile of relief;

(d) Act of 27 July 1986 on the fight against poverty (RMG).

549. The communes have a obligation to take charge of their residents in need. The law of 1897 impose on them the duty to organize suitable means of providing public relief to the poor. The commune intervenes by voting credits that are managed by the "charity offices" (in 1986 the name was changed to "social offices"). The mission of the social offices is defined as follows:

(a) To take charge of all health risks, including medical assistance and hospitalization for persons whose resources are inadequate and who do not have the relevant social security cover;

(b) to contribute to the maintenance costs of persons placed in public or private institutions;

(c) To administer the assets set aside for the poor and to distribute relief.

The social office of a commune is composed of five members appointed by secret ballot by the communal council. Only the offices of the communes of Luxembourg, Esch-sur-Alzette, Differdange and Dudelange have intervention teams composed of permanent staff qualified for social work.

8. Comprehensive National Social Assistance Service

550. This service is run jointly by the Luxembourg League for Medico-social Prevention and Action (formerly the Luxembourg League Against Tuberculosis; amended Act of 19 March 1910) and the Luxembourg Red Cross (Act of 28 August 1923). The service constitutes the most comprehensive global network of medico-social and social welfare in the country. The State reimburses the major part of the operating expenses.

551. The guiding principles of the service are as follows:

(a) To cover the whole of the territory of the Grand Duchy and address the whole of the resident population;

(b) To continuously assure a long-term presence in the geographical sectors defined;

(c) To intervene with a global and polyvalent approach taking account of social, relational, psychological, economic, cultural and medical aspects;

(d) To situate users' problems simultaneously in their family, micro- and macro-social contexts;

(e) To organize a non-bureaucratic presence and react promptly to situations of urgent distress;

(f) To ensure follow-up of more isolated and specific interventions organized by specialized services;

(g) To approach users in an atmosphere of respect and empathy.

552. The service carries out a very wide range of interventions:

(a) Preventive medicine:

(i) prevention, screening and surveillance of chronic disabling diseases

(ii) participation in programmes of education and training for health

(iii) medico-social protection of children

(iv) participation in programmes to combat drug addiction

(b) Social/family welfare:

(i) participation in the fight against social exclusion

(ii) organization of multifaceted social accompaniment of individuals or families in passing or permanent difficulties

(iii) organization of various forms of relief in times of crisis

(iv) participation in initiatives for social and occupational insertion

(v) referral of users to the specialized social services

(vi) participation in programmes of action in the fields of promotion of the rights of the child and social protection of children

(vii) participation in the guidance of foreign and refugee families

(viii) contributions to the implementation of programmes of action for isolated, ill, elderly or disabled persons

(ix) aid to persons in a state of dependency

(x) participation in measures to combat debt

(xi) aid to victims of disasters or public calamities;

(c) participation in medico-social initiatives of the State, the communes or private agencies:

(i) conducting of social surveys

(ii) participation in sessions of programming, concertation and evaluation.

553. The organization of the service is based on division of the country into 66 geographical sectors in each of which service missions are organized and carried out by a qualified social worker (social assistant or social hygiene assistant). The sectors are grouped in 11 regional units each with a medico-social centre (administrative headquarters, medical equipment).

9. Nongovernmental organizations

554. Many specialized social services are managed by private bodies. Their activities are presented in other parts of this report. The most important areas of intervention are:

(a) Protection of children:

(i) reception centres (Heime)

(ii) socio-familial residential homes

(iii) family placement services

(iv) adoption services

(v) services of aid and welfare, social and occupational insertion

(vi) prevention of cruelty to children

(vii) open doors

(viii) supervision of children outside school hours

(ix) school learning support

(x) telephone helplines

(xi) prevention of drug abuse

(b) Promotion of the family:

(i) formation

(ii) counselling, telephone helplines

(iii) holidays, leisure

(iv) home help

(v) accompaniment at the end of life

(c) Integration of adults in distress:

(i) hospices and services for people at the end of life

(ii) homes and services oriented towards the social and occupational reinsertion of socially excluded persons

(iii) homes and services for women in distress

(iv) homes and services for single parent families

(v) debt control

(vi) rape information

(vii) mental health, prevention of alcoholism and drug addiction

(d) Integration of disabled persons:

(i) homes and reception centres

(ii) day centres

(iii) early screening and rehabilitation

(iv) protected workshops

(v) information and counselling centres

(e) Care of the elderly:

(i) integrated centres (accommodation)

(ii) care homes

(iii) day centres

(iv) home help services

(v) home care services

(vi) meals on wheels

(vii) convalescence centres

F. Protection of young consumers

555. For some years the Luxembourg Consumers' Union has endeavoured to raise the awareness of young consumers by means of documents aimed at children in the third, fourth, fifth and sixth years of primary education. Consumer education is thus incorporated into "science awareness" and the aim is to give children the necessary abilities to become critical consumers.

556. In 1987, the Luxembourg Consumers' Union produced a book of about 100 pages for pupils in secondary intermediate vocational education and a brochure for children in pre-school education. Every week, radio broadcasts for primary classes raise awareness of various issues to do with the consumption of goods, the means of acquiring them and related ecological, economic and health aspects, and money management.

557. In 1995, a travelling exhibition on the problem of debt was organized by the National Debt Prevention Service. It was visited by many primary and secondary school classes.

558. The Supreme Council for Youth examined this problem and organized meetings of discussions with delegates from youth movements and representatives of the banking sector..

G. Sport (art. 31, para. 1)

559. Teaching experience in pre-school education has shown the importance of play and teaching is adapted to individual differences with the aim of integrating disadvantaged children. Activities are divided into six categories: language activities, science awareness, logic and mathematics, artistic, musical and corporal expression. The major objectives in the area of corporal activities are: satisfaction of natural need for movement, promotion of physical development, development of spatial sensitivity, refinement and diversification of motor control. Development of self-control, overcoming fear and gaining self-confidence are also important. In pre-school education, physical education and sport are included in the official timetable with three lessons or sessions per week. The lessons are given in principle by the class teacher. However, as the class teacher's weekly timetable comprises 24 hours, physical education classes are very often given by supernumerary staff, who are either general subjects teachers additionally qualified for physical education, or instructors engaged by the commune who often have no specific qualification.

560. In the primary schools, the timetable of 30 hours per week also includes three sessions of physical education given by the teachers or by supernumerary staff and included in the category of creative activities. The general and specific objectives of physical education in primary schools are the same as in the other countries of the European Union. The emphasis is on good psychosocial development and acquisition of the necessary knowledge for the practice of suitable physical and sports activities throughout life. The content may comprise all the activities involving a greater or lesser extent of motor control, simplified and adapted to the possibilities and abilities of the children in the different classes. Teachers must also refrain from introducing purely performance sports too early or too exclusively. The importance of different themes varies depending on the age of the children, i.e. at a lower age, the emphasis is on locomotion and manipulation, while at the secondary and

especially at the higher level greater importance is attached to physical effort, cooperation and competition.

561. The following activities are included in the term "physical education":

(a) Basic activities such as walking, jumping, running, throwing, crawling, pulling, climbing and balancing, in the form of exercises and games;

(b) Exercises and activities for muscle-building and suppleness of joints and muscles;

(c) Handling of small objects such as balls, ropes, batons and sandbags;

(d) Rhythmic activities and children's dances, simple folk dances, activities of mime and corporal expression;

(e) Outdoor activities, overall techniques of high jump and long jump, ball throwing, running races;

(f) Traditional games, team sports;

(g) Learning to swim: exercises and water games, jumping and diving, overall techniques of swimming.

562. During their free afternoons, mostly on Tuesdays and Thursdays, children can take part in the out-of-school activities run in many of the communes, in particular by the League of Primary School Sports Associations (LASEP). This association, at present divided into 61 sections extending geographically throughout the country, sets out to support schools in the teaching of physical education where they have neither the time nor the money to do it on their own. The overall objective of LASEP is to initiate young people in the most common sports activities and techniques, contribute to the development and flowering of their personality both physically and mentally and inform them of the importance of sport in our present-day society. Although there are still complaints about insufficient numbers of qualified personnel, lack of opportunities and certain deficiencies in infrastructure, LASEP intends to continue and improve its efforts to give young people from 6 to 12 years as widely varied a grounding in sport as possible. At present, one child in six takes part in these activities on Tuesday and Thursday afternoons and this number will tend to rise in the years to come given certain measures taken by the directors of LASEP to strengthen their base and offer children a modern programme enabling them to develop a positive attitude to sport.

563. Compulsory sport in schools and out-of-school sports activities depend largely on the communal sports infrastructures available. In this connection, the communes and communal councils have for some thirty years received considerable financial aid from the State through six five-year sports infrastructure programmes established by law, whose content is determined by the Ministry of Sport and approved by the Government in Council. By the law of 29 June 1993, the Government was authorized to subsidize a sixth five-year sports infrastructure programme to run from 1 January 1993 to 31 December 1997.

564. Details of the sports facilities in the Grand Duchy of Luxembourg in 1995 are given below:

Type	Total	Ownership		Management	
		Public	Private	Public	Private
Gymnasia	243	243		243	
Indoor swimming pools	79	65	14	65	14
Outdoor swimming pools	25	12	13	12	13
Large open air sports					
Football	170	170		140	30
Rugby	1	1		1	
Hockey on grass	-	-		-	
Basketball/softball	52	52		52	
Stadia (circular athletics tracks)	11	11		11	
Tennis courts	190	not identified			
Indoor tennis courts	68	14	54	6	62

The financial contribution of the State is 1,050,000,000 francs and this investment constitutes approximately 40% of the overall expenditure of the programme.

565. The lower division of secondary classical and technical education (see chapter VIII.D) provides for three hours of physical education in the seventh class and two hours in the sixth and fifth or eighth and ninth respectively, while in the senior division the number of physical education sessions stipulated by the Grand Duchy regulations of 17 December 1991 is two in the fourth or tenth class respectively and one session for the other classes in the senior division.

566. The physical education teachers required to teach physical education classes must fulfil the following study requirements:

(a) A diploma of completed secondary education in Luxembourg or a foreign equivalent recognized under Luxembourg law currently in force;

(b) Have completed a single full course of study of at least four years of university or university level studies in theory and practice;

(c) Hold a diploma conferring a higher education qualification recognized by the country of origin or giving access in that country, either to teaching practice or to the function of physical education teacher.

567. As well as compulsory physical education classes, pupils and students in post-primary and higher education are offered a set of sports activities made available by the League of Luxembourg Student Sports Associations (LASEL). This was founded on 23 January 1938 and is also a founder member of the International University Sports Federation and the International School Sport Federation as well as being a member of the Luxembourg Olympic and Sports Committee. Today the

LASEL has 34 sports associations representing almost all post-primary and higher education establishments in the public and private sectors. About 1500 young people aged from 12 to 20 and over are members of the affiliated sports associations; more than 5000 are LASEL graduates. The objective of LASEL is to organize and foster the development of a sporting spirit and the free practice of sport among students at post-primary and higher education establishments. After a break in its activities from 1940 to 1944, the LASEL has grown considerably.

568. Many good sportsmen have emerged from its ranks. At present, LASEL organizes national competitions in a dozen sports disciplines for boys and girls, in four age groups or birth years, for affiliated members and non-affiliated federal participants. Mass sports events (fun runs, cycling tours, swimming) are also part of the sports programme, as well as outdoor events (sailing, surfing, rock climbing). LASEL also organizes international meetings with neighbouring regions and participates actively in the activities of the International School Sport Federation (gymnastics tournaments, championships). It takes part in the university championships of the International University Sports Federation.

569. With regard to the sports activities offered in post-primary education, mention should be made of the training centres at the National School of Physical Education and Sport. Since 1988, when the basket-ball training centre was created as a pilot project, five more centres have been set up, for football, handball, table tennis, athletics and cycling. Several other sports disciplines have already shown interest, in particular tennis, volley-ball and swimming. The principle of the training centre was developed following the introduction of special timetables in seven secondary schools in different parts of the country. These special timetables consist in an adaptation of the timetables of Mondays, Wednesdays and Fridays, when the pupils are in class until 2.00 pm, and with Tuesdays and Thursdays also extended until 2.00 pm. This system has the major advantage that the pupils are free on Saturday mornings so that they can take part in training or prepare for sports competitions. They are also available on Saturday afternoons for intensified training sessions. The six sports federations listed above are thus optimally able to organize their training which is as follows.

570. The training centres in general are divided into several groups by age and/or sex. Study proceeds alternately, for example, if the girls' group trains for 1½ hours, the boys' group studies under the supervision of qualified staff (often trainee teachers) and vice versa. As well as this training at the training centre, the federations also offer additional training sessions. The pupils are taken by coach to the National Sports Institute and other places for training. They are able to have lunch there and study under the supervision of qualified staff.

571. From time to time, the pupils test their newly acquired capacities by taking part in tournaments, preparatory courses and national and international championships. The results achieved second the students, trainers and federation leaders and officials of the National School of Physical Education and Sport in spotting and training young talent. Statistics on school results achieved by the 226 sports students enrolled in the six different centres also show that this new combination of study and sport has no adverse effect on school results,

since 83.7% of those enrolled passed their end-of-year examinations at the end of the school year 1994/95.

572. As well as school sport, children of all ages are offered a vast range of sports activities grouped into 56 sports federations that are members of the Luxembourg Olympic and Sports Committee, the central sports body, and recognized by the Ministry of Physical Education and Sport. The federations comprise some 1500 clubs. In the 1500 clubs there are about 69 800 licensed members and 25 900 with a recreation licence. However, not all the sports offered by the federations are suitable for young children, for example, shooting, weight lifting, wrestling, power lifting, motor cycling, musculation and body-building, aeronautics, motoring, etc... The disciplines most often practised by children from an early age are football, table tennis, gymnastics, basket-ball (baby-basket) and athletics. Many national and international championships are organized for the categories of infants, toddlers, nursery, school children, cubs, juniors and young people, giving children a chance to acquire useful experience, make friends and develop their personality and self-confidence.

573. According to the Grand Duchy regulations of 26 August 1980, all active licensed members must undergo a sports medical test at regular intervals, and this also applies to children reaching the ages of 12, 15 and 18 respectively during the current year. Since the 1980s an evolution has been observed in sport in that the average age at which young children are brought to practise a sport in the framework of a sports association has fallen considerably.

574. However, competition sport is not recommended for young people below a certain age, although this does not mean that they should refrain from physical activities. Below the age of seven years, no activity should be practised in a purely competitive form . Children under seven are not admitted to sports medical examinations but may, if necessary, obtain a licence on the basis of a medical attestation expressly stipulating no contraindication to the sports activity envisaged. The content of the sports medical examination is as follows: full medical examination; morphological examination; urine analysis; various exertion aptitude tests. These examinations are carried out at 14 sports medicine centres in different parts of the country.

575. General reference should also be made to the vast programme of activities offered by the Sports Service of the City of Luxembourg for young people between the ages of 13 and 17. This special holiday programme offers one-week sports courses with full board and lodging in youth hostels and sports centres for the following disciplines: mountain biking, surfing, sailing, golf, nautical sports, cycle touring, sea sailing... . Many communes also offer a "mother and baby" physical education and swimming programme provided exclusively for children under three years accompanied by their mothers. The Ministry of Youth and its services, in the framework of their leisure activity programmes, offer young people a variety of sporting activities on a recreational basis.

576. The result of these measures is that children today, when they come to start their professional life, have received not inconsiderable physical sports education that will enable them to make healthy use of their leisure, develop a taste for effort and initiative, and a sense of responsibility, discipline and loyalty. The State, aware of the value and importance of physical education and sports, both for the individual and for society, assumes a mission of direction, orientation, coordination, support and encouragement. In this connection,

reference is made to chapter IX.A (Recognition of the right of the child to leisure, recreation, cultural and artistic activities)

VIII. EDUCATION (Art. 28)

A. Presentation of the Luxembourg school system

577. Article 23 of the Luxembourg Constitution is worded as follows:

> "The State ensures that every Luxembourger receives primary education which is compulsory and provided free of charge. Medical and social assistance is regulated by the law. [see chapter VII on this point]
>
> The State sets up secondary educational establishments and the necessary courses of higher education. It also establishes free vocational training courses.
>
> The law determines the means of supporting State education and the conditions under which it is to be supervised by the Government and the communes; it also regulates all educational matters and creates a fund for the exceptionally gifted.
>
> Every Luxembourger is free to pursue his studies in the Grand Duchy or abroad and to attend universities of his own choosing, subject to the provisions of the law concerning admission to employment and the exercise of certain callings".

The Luxembourg constitution thus entrusts responsibility for the organization, regulation and surveillance of education to the State. Compulsory education covers 11 years in Luxembourg (2 years of pre-school education, 6 years of primary education followed by 3 years of post-primary studies).

578. Public education in the Grand Duchy is free; that is, the costs are principally borne by the State budget. Pupils do not contribute to the running costs of the schools they attend.

579. In Luxembourg, the vast majority of primary and secondary schools are public. The private schools that exist function as legal entities. However, education outside the State schools is a less important phenomenon than in other countries. Thus, in 1991/92, there were 680 pupils attending a non-public primary school and 2 108 attending a non-public post-primary school in Luxembourg. Government control is exercised in these schools principally in the area of studies and curricula. To be able to receive a contribution from the State, private schools must fulfil a number of conditions relating, inter alia, to the purposes of education (to give collective education corresponding to one of the orders of post-primary public sector education in such a manner that the teaching given may be sanctioned by the public education examinations).

580. In Luxembourg, there are only the national and local levels in the field of education. The local level is very important for the functioning of pre-school and primary education.

581. In the Grand Duchy of Luxembourg, there is a high number of foreign pupils in all orders of education. In primary education, the proportion of foreign pupils remains stable at around 30%, in secondary education at around 11-12% and in technical secondary education the level is about 30%. More than half the foreign pupils are of Portuguese and Italian nationality.

582. The traditional teaching of languages is a necessity for a country situated at the crossroads of two different cultures and is also of not inconsiderable benefit to young people entering the labour market. This compulsory multilingualism nevertheless constitutes an additional difficulty for most of the foreign pupils and for many Luxembourg children. The learning of German in particular is of appreciable difficulty for children from Romance language countries.

583. A significant number of parents send their children to Belgian and French post-primary schools to escape the rigours of the Luxembourg educational system. To date it has not been possible to obtain reliable data on primary school children attending foreign schools.

584. With regard to post-primary education, a study by the Ministry of National Education and Vocational Training in 1989/90 identified 1 154 young people residing in Luxembourg and attending a post-primary school in Belgium, France or Germany. In 1990/91, this number rose to 1 241. 85% of these young people were studying in Belgium. 41% of the young people identified by the study were of Luxembourg nationality. 50% were still subject to compulsory education. 22% were aged 17 and over. 60% were in general secondary education.

585. Nearly 50% of those successfully completing their secondary education had devoted 8 or 9 years to their studies.

586. The proportion of young Luxembourgers enrolling in higher or university education is lower than in most countries of the European Union and consequently fewer young Luxembourgers obtain training at the higher level.

587. One of the particularities of the education system in the Grand Duchy is certainly the absence of a complete cycle of university education. The rationale for this is based on the one hand on the inadequacy of our financial and human resources, and on the other on the positive contribution made by professionals who have studied abroad, and finally on the density of university institutions in neighbouring regions. In fact, only one foundation year of studies is organized in Luxembourg. This teaching is given at the Luxembourg University Centre. The Grand Duchy has also developed the provision of higher education activities, in particular in the fields of health, the exact sciences, informatics...

588. The growth of the cost in human resources and the financial cost relating to our educational system has increased over the years to such an extent that continuation at the same rate would give rise to serious difficulties (see VIII.6).

589. The challenges that must be addressed by education and training mean that these domains must remain among the priorities of the Government which will continue the process of renovation begun during the previous legislature. To this end and in addition to the reforms that have been started, it is urgent to

analyse in depth how well the educational system is adapting to changing social, economic and technological needs so as to determine the path to follow to respond better to the imperatives of the future.

B. Pre-school education

590. Pre-school education classes are known in ordinary parlance as "nursery schools". The mission of pre-school education is to contribute to the development of all aspects of the child's personality; mastery of the environment; and integration into social and school life. It is also concerned to compensate for deficits relating to the social environment and to prevent school maladjustments.

591. Pre-school education is governed by the Act of 5 August 1963 which stipulates that children of four to six years are admitted to nursery schools and that attendance is compulsory. The State pays two thirds of the salaries of the teachers in pre-school education. The other costs are borne by communal administrations. Pre-school education is free of charge in the public nursery schools.

592. In 1993/94, 9 408 children attended pre-school classes (9,310 in communal schools and 98 in private education). The number of teachers at this time was 491 (1 teacher per 19 children).

593. The timetable is as follows: nursery schools function from Monday to Friday in the mornings from 8.00 am to 12.00 pm and Monday, Wednesday and Friday afternoons from 2.00 pm to 4.00 pm.

C. Primary education

594. The organization of primary education is regulated by the Organization Act of 10 August 1912, which has been amended several times. Primary education is intended to ensure that children acquire the knowledge that is necessary and useful for them to continue their education, develop their intellectual faculties and prepare them to practise civic and social virtues.

595. Primary education is compulsory for all Luxembourg or foreign children who reach the age of six years during the current school year (cut-off date: 15 September). Children must receive instruction in the subjects specified by the law for nine consecutive years (i.e. up to the age of 15 years).

596. In principle, all children of compulsory school age must attend the communal primary school in the school catchment area of the person having custody of the child. However, a child may also receive the required education either at home, or in a public or private school, at a level of study at least equivalent to primary school, in the Grand Duchy or in another country.

597. In Luxembourg, primary education comprises six years of primary studies and special classes. The special classes are organized for all children with problems at school. Admission to a special class must be approved by the regional medico-psycho-educational commission after examining the child, and by the parents.

598. There are various measures to help migrant children and children having difficulty in following the normal programme. It should be noted that in primary school, Luxembourgish is used in the first place as the vehicular language, especially during the first years of study. Reading and writing are learned in German, which progressively becomes the language of instruction. The French language is taught from the middle of the second school year. This compulsory multilingualism creates problems for many children. For foreign pupils particularly exposed to multilingualism, there are various forms of assistance:

(a) Reception classes (for children arriving during a school year);

(b) Support classes (especially for learning German);

(c) Waiting classes (an experiment carried out in the capital; here, the lower school programme is taught over a period three instead of two years).

599. After successfully completing the sixth year of primary education, children at present have the possibility of being admitted to the first year of technical secondary or secondary education following an entrance examination. The Government intends to carry out a fundamental revision of the modalities of passage from primary to post-primary education as from the year 1997/98 (for more details, see VIII.D).

600. Education is considered a public service by the State. However, it may also be given at home or in private schools. In these cases, the teachers must possess the qualities required to be able to teach in public schools and the education given must cover the subjects prescribed by the law.

601. The programme comprises the following subjects: religious and moral instruction, languages (German, French and Luxembourgish), arithmetic, national history, local geography and environment, artistic and musical education, physical education, handwork, science awareness, optional classes, introduction to new information technologies. This programme is applicable throughout the country.

602. The pupils receive 30 hours of teaching per week: 6 mornings (from Monday to Saturday) each with four lessons (from 8.00 am to 12.00 pm) and three afternoons with two lessons (Monday, Wednesday and Friday), form 2.00 pm to 4.00 pm.

603. Children are assessed by means of continuous assessment throughout their primary schooling. Pupils must repeat a year if they have not obtained the requisite marks in two of the three major subjects (German, French, arithmetic). A repeat year is only rarely imposed (for about 5% of pupils). This figure corroborates the reality that many primary school children accumulate serious gaps in their learning which may compromise their chances of insertion into the different systems of education. Moving these children up to the next class may disguise the fact that an increasing number of these pupils have not attained the ambitious objectives set in the official programmes and syllabuses. It is to be feared that this phenomenon particularly afflicts families facing social difficulties and non-Luxembourg families. Notwithstanding formal ministerial instructions, many teachers impose a heavy burden of homework, which all too often not only requires surveillance but also the active help of parents or other adults. Thus children whose parents do not have the competence or the time

required are likely to be severely disadvantaged. Foreign pupils are often offered extra language lessons outside the official school programme to initiate them into the culture of their country of origin. This only adds to the overload on many primary school children and may bring the number of hours up to more than 40 hours per week. Class teachers decide whether it is necessary for a child to repeat a year, unless the parents appeal to the primary schools inspector.

604. In the rural communes, village schools are increasingly being replaced by regional schools. This innovation certainly has the advantage of more effective teaching in classes under a single regime, but imposes long journeys to school on children from the age of four onwards.

605. Surveillance of primary education is the duty of the State and the commune (not only for the public schools but also for private establishments). The Government's surveillance is exercised by the Ministry of National Education and, under orders, by the Commission on Education. The latter is composed of the Director of the Higher Institute of Study and Research in Education (this Institute trains pre-school and primary school teachers), the Chief Inspector of Primary Schools (who supervises and controls the 11 inspectors responsible for primary school inspection) and four members appointed by the Government, a primary school inspector, a teacher, and the bishop or his representative. The college of 11 primary school inspectors has a function of choice in regard to the control of teaching as well as well organization within schools. Local surveillance is exercised by the communal authority and by the school board composed of the mayor or his representative as chairman, an ecclesiastical member appointed by the Ministry of National Education on the proposal of the bishop and three lay members appointed by the communal council. In communes with a population of 3000 or more, the number of lay members is increased to five. Their function as teachers renders the school staff ineligible to serve on the school board.

606. The 1912 Act provides that in the case of unjustified absence from school of a child subject to compulsory school attendance, the responsible person (parent or guardian) shall first of all receive a summons from the school board or from the inspector. In the case of further unjustified absences, the responsible person shall be sentenced to a criminal fine. Repeated unjustified absences shall also lead to a summons to appear before the youth tribunal which, if appropriate, may impose a measure of custody, protection or education in respect of the juvenile, ranging from a reprimand to placement in an institution.

607. Teachers are appointed by the communes on the recommendation of the competent inspector and with the approval of the Government.

608. The same provisions apply to the financing of primary education as to pre-school education.

609. In 1993/94, public primary education was given in 1 694 classes with 27,595 children and 1 911 teachers. In private education, there were 17 classes with 389 children and 17 teachers.

D. Post-primary education

610. After the sixth year of primary education, pupils must choose between three different seventh year classes. In opting for one of these classes, they choose a given pre-determined stream, although the new structures in education do generally permit pupils to move from one stream to another, particularly in the first three years of post-primary education.

611. Entry to one of the three orders of education is at present by means of an entrance examination:

(a) If children have successfully completed the sixth year of primary school and pass the examination for entrance to the orientation class for secondary education, they can continue their studies in secondary education;

(b) If they have successfully completed the sixth year of primary school and pass the examination for entrance to the first class of technical secondary education, they can continue their studies in technical secondary education;

(c) If they have not passed either of these examinations and have reached the age of 12, they may be admitted to preparatory classes for technical secondary education.

612. As from the school year 1996/97, pupils are being oriented in the light of orientation advice given by their teacher. This advice is analysed by a commission composed of post-primary teachers, a psychologist, and a primary education inspector. The advice not only takes account of school results but also of the child's skills (particularly scientific and technical skills). This commission makes observations with the help of evaluation grids prepared by the Ministry of National Education and Vocational Training and shares its observations with the child's parents. All children have access to technical secondary education without having to pass an entrance examination, while children wishing to continue their studies in secondary education have to sit an entrance examination. With these new measures, the authorities hope to prevent repeated failures in secondary education resulting from the wrong orientation given to children.

613. As in 1994/95 there were 3 907 pupils in the sixth year of primary education, it may be concluded that 96.3% took at least one examination for admission to post-primary education. 3 233 sixth year pupils (82.5%) passed an examination for admission to post-primary education, 2 047 (52.4%) to general secondary education and 1 176 (30.1%) to technical secondary education. 540 pupils (13.8%) failed. 144 pupils (3.7%) did not take any entrance examination. *(Source: Courrier de l'Education nationale, Results of the 1995 entrance examinations, Innovation and educational research, Ministry of National Education and Vocational Training, November 1995.)*

1. Preparatory classes for technical secondary education

614. The creation of the preparatory regime and its integration into the structures of technical secondary education is part of an education policy oriented towards greater vocational qualification of young people. The preparatory classes take the pupils who have not succeeded in passing either of the entrance examinations.

615. In 1994, the old complementary education underwent a thoroughgoing reform. The consequence of this reform was that complementary education disappeared as a separate and distinct stream of education and was integrated into technical secondary education under the title of "preparatory regime". Responsibility for the classes in question was given to nine technical high schools (lycées). Any pupil reaching the age of twelve years by 1 September of the current year may enrol in the preparatory classes.

616. The principal mission of the preparatory regime is to prepare pupils for entrance to technical secondary education. It should be envisaged that this passage will occur in the short term. To attain this end, a teaching approach adapted to the capacities for assimilation and specific motivations of the pupils in question is used. Teaching is based on a modular system. The pupils are presented with modules, which are programme units limited in time and space. Because their knowledge is thus frequently tested, they are quickly and systematically kept informed of their progress and of the number of modules they still have to complete.

617. In the preparatory regime, pupils are not distributed into different classes: each pupil is placed, in each subject, in the group of the level corresponding to his or her degree of attainment. Their progress through their school career also does not follow the normal pattern. Pupils do not go through the classes foreseen one by one. Their progress is based on the number of modules they are able to accumulate. Each child is therefore able to progress at his own pace, which means that for some children, the preparatory stage may last for more than the three basic years. It follows that pupils are not automatically excluded from education when they reach the age of fifteen, the age at which they will normally have completed their compulsory education.

618. The reform of the preparatory regime also involves a host of other accompanying measures all intended to have a positive influence on pupils' motivation for work. Psychological educational guidance is given, on the one hand, by the Educational Psychology and Guidance Services in the various schools, and on the other, by teachers who receive a special allowance for tutoring. Tutoring has been conceived as a special helping relationship that is intended to give pupils back their confidence, motivate and remotivate them, and ensure that their fundamental needs are met.

619. In 1995/96, 2 432 pupils distributed between 153 classes attended classes in the preparatory regime. This training is offered in nine technical high schools.

2. Technical secondary education

Organization and structure of technical secondary education

620. This type of education was created by the Act of 21 May 1979 amended by the Act of 4 September 1990. In cooperation with the economic and social world, it prepares pupils for professional life by giving them a general, social, technical and vocational education. It also prepares for university study. Technical secondary education is given in 15 establishments, some of which are specialized (e.g. agricultural technical high school, hotel management technical high school). This type of education is also organized in private schools.

621. Depending on its divisions, the timetable provides for sections or regimes of 28 to 36 weekly lessons of 50 to 55 minutes. School hours are in principle from 8.00 am to 11.45 am and from 2.00 pm to 4.00 pm. On Tuesdays, Thursdays and Saturdays there are no lessons in the afternoons. Some high schools have timetables specially adapted for pupils to practise sport (supported by the sports federations) and music. The school hours are from 8.00 am to 2.00 pm and Saturday is free.

622. In 1993/94, 14 153 pupils were enrolled in technical secondary education, of whom 53% were male and 47% female. 86.5% were in public sector schools and 13.5% in private education.

623. Distribution by age reveals retardation in relation to the normal age (assuming that children entered the first year of primary school at the age of six, that they were admitted to a seventh year class after their sixth year of education and that they did not repeat any class) for attendance in the different grades. Nearly 45% of the pupils in a seventh year class are already one year behind (having repeated a year) and this proportion increases through successive years to the thirteenth year where 80.6% of pupils are over the normal age.

624. 32.7% of the pupils in technical secondary education are foreign. Among the foreign children, the Portuguese are represented in greatest numbers (19.7%), followed by Italian (6.0%) and French (1.3%) pupils. In relation to the total number of foreign pupils, the proportion of Portuguese pupils is 60.2% and the proportion of Italian pupils is 18.2%. The Portuguese and Italian pupils thus together account for more than three quarters of the foreign pupils in technical secondary education. *(Source (statistical material): Courrier de l'Education nationale, Technical secondary education 1993/94, General statistics and analysis of the promotion of pupils, Innovation and research in education, Ministry of National Education and Vocational Training, October 1995.)*

(a) Junior cycle of technical secondary education

625. This cycle, which comprises the first three classes (the seventh, eighth and ninth) should enable pupils to build up their general education in more depth and, at the same time, steer them towards the training or occupation corresponding to their abilities and wishes. The school curriculum therefore includes a wide variety of optional subjects, introductory courses and preliminary vocational training which increases in importance as the pupils progress.

626. The seventh - observation - year is above all intended to strengthen the pupils' general education. The curriculum which includes languages, mathematics, human and natural sciences, physical education and religious and moral instruction or moral and social training, is not radically different from that of the sixth year of primary school. Extra lessons, together with the help provided by the educational psychology and guidance services incorporated into all schools, help to cope with any possible problems of adjustment.

627. Like the seventh year, the eighth - orientation - year, is focused above all on general education. But the curriculum begins to diversify. On the one hand, pupils are already being brought into contact through lessons of a practical nature with the different families of occupations. Meanwhile, pupils

are divided into classes with two different teaching approaches, one technical and the other professional. These classes differ, not in their basic programme, but in their general orientation, the relative importance of the subjects taught and the methods of teaching. At the same time, there are optional classes so that pupils do not have to decide prematurely on a particular orientation and this allows them to catch up in any given subject. Courses on the use of computers are also given in addition to the basic curriculum.

628. The ninth - destination - year, as its name suggests, has a considerable influence on the pupils' subsequent careers. In this class, the pupils are divided, as in the eighth year, into several "streams". There is an even wider range of choice for the pupils in the occupational determination class to take account of the individual abilities of each pupil. The subjects with a practical orientation correspond to the distribution of the pupils. Each pupil thus comes into contact with the family of occupations that corresponds best to his or her activities and interests. The pupils are also helped in their orientation by visits to enterprises, short introductory courses and exhibitions in which representatives of all sectors of the economy take part. The educational psychology and guidance services take part in the organization of these activities and help each pupil to find the occupation or profession to which he or she is suited.

629. On completing the ninth year, pupils have fulfilled their requirement for compulsory school attendance. The type of studies or apprenticeship accessible depends largely on their performance and the level they have attained. Successful completion of a ninth year class enables them in all cases to embark on apprenticeship for an occupation. The decision to promote a pupil to a tenth year in the intermediate cycle is taken by the class council which draws up an orientation profile to this end.

630. The statistics that follow are taken from "General statistics and analysis of the promotion of pupils in technical secondary education 1993/94" (Courrier de l'Education nationale, Ministry of National Education and Vocational Training, October 1995):

(a) In 1993/94, 3,231 boys (50.4%) and 3,175 girls (49.6%) attended the classes in the junior cycle (total of 6,406);

(b) 5,149 pupils (80.4%) were in public schools and 1,257 pupils (19.6%) in private education;

(c) In the lower cycle, 4 365 pupils (68.1%) were of Luxembourg nationality and 2,041 pupils (31.9%) of foreign nationality, including 1,262 Portuguese pupils (19.7%) and 344 Italian pupils (5.4%). 61.8% of the foreign pupils were of Portuguese nationality;

(d) The success rate (overall lower cycle) of Luxembourg pupils was 80.5%, of Portuguese pupils 78.9%, of Italian pupils 79.1% and of pupils of other nationalities 79.5%.

(b) Intermediate cycle of technical secondary education

631. The aim of the intermediate cycle is to offer all pupils who have successfully completed a ninth year class a training leading to a recognized

vocational qualification, the CATP (certificate of technical and professional aptitude). At the same time it provides the opportunity to assimilate the more theoretical and abstract subjects required for admission to the higher cycle. The intermediate cycle comprises two or three years, i.e. the tenth and eleventh years and, depending on the regime chosen, the twelfth year. The intermediate cycle comprises three regimes: vocational training, technician training and technical.

(i) The vocational training regime

632. The vocational training regime has the following divisions:

Agricultural apprenticeship
Craft apprenticeship
Commercial apprenticeship
Hotel and tourist trade apprenticeship
Industrial apprenticeship
Domestic science apprenticeship
Paramedical and social apprenticeship

633. The vocational training regime offers the most direct and straightforward access to a vocational qualification, the CATP. The course of the vocational training depends on the profession. Some apprenticeships consist in a practical apprenticeship with an employer for three years, combined with theoretical training at a technical high school usually for eight hours a week. This is the combined course. For other professions there is mixed course: apprentices attend vocational training classes at a technical high school full time for one or two years and complete the rest of their training with an employer. For a small number of professions, training consists in a full three years at school. The range of possibilities available at the end of the ninth year class depends on the "orientation profile" in which the pupil's efforts have resulted.

Apprenticeship for a CCM (manual skills certificate)

634. Training leading to the CCM is organized for pupils from whose results before starting their apprenticeship or during their apprenticeship it is apparent that the objectives of the vocational training regime will not be attained within the time limits stipulated by the law or its executory regulations. Training is organized in the combined regime; it covers the same number of years as training for the CATP in professions and occupations respectively. The training programme leading to the manual skills certificate comprises:

(a) practical apprenticeship in an employer's enterprise;

(b) practical apprenticeship in a school workshop;

(c) theoretical instruction relating to the profession.

635. The list of occupations and professions in which apprenticeship leading to the manual skills certificate (CCM) can be organized is determined by the regulations of the Grand Duchy.

Two-stage apprenticeship

636. As some pupils have the ability to learn the practical side of a occupation but are not capable of assimilating the theory subjects at the same pace, they are offered a training in two stages. The first stage covers a period ranging from two to four years. In principle, the apprentices must have entered into an apprenticeship contract with an employer. At the same time, they learn the theory subjects at the technical high school at their own pace, which means that they concentrate, depending on their powers of assimilation, on a variable number of theory courses. This modular system enables them to obtain, after a certain time, the theory part of a certificate known as the CITP (certificate of technical and professional initiation). To obtain the practical part, they must take a further examination. The CITP is equivalent to basic training. On obtaining this certificate, apprentices should be encouraged to embark on the second stage and thereby obtain the CATP. For this, they may enter into a normal apprenticeship contract. They may also, on the basis of their certificate, be taken on by an employer and attend the theory classes offered in the framework of adult education.

637. The annual number of pupils passing a CATP rose by 26% between 1984/85 and 1988/89 to reach the figure of 1 157. The ratio between the number of CATP certificates awarded and the number of students progressed substantially between 1984 and 1989 (+45%). The annual number of CATP certificates awarded in the occupations regulated by the Chamber of Commerce as the employers' organization (industry, civil engineering, commerce, decorating, office work, HORESCA sector, etc) progressed by 152 (+28%) between 1980 and 1990. The mean annual number of CATP certificates awarded during this period was 615. The number of CATP office workers progressed by 67% to 221. The annual number of CATP certificates awarded in occupations not regulated by the Chamber of Commerce as the employers' organization fluctuated considerably between 1985 and 1989 (between 383 and 502). There is no clearcut trend except that since 1985 there is an ever increasing number of CATP holders in the occupations regulated by the Chamber of Commerce.

638. The number of apprenticeship certificates (CATP; CCM, including adults) awarded by the Guild Chamber as the employers' organization fell between 1984 and 1989 by 30.8%. This overall decline is essentially due to the large group of building trades which saw a decline in the annual number of persons obtaining a certificate of qualification (CATP or CCM). *(Source of statistical data: Schools tomorrow. The educational system in Luxembourg faces change. Ministry of National Education, 1994).*

(ii) The technician training regime

639. This is a training that falls half way between the vocational training regime and the technical regime. Technician training extends through the tenth and eleventh years of the intermediate cycle and the twelfth and thirteenth years of the higher cycle. The technician training regime is intended to train a highly skilled workforce by giving very advanced professional training. Technicians will be capable of participating in the design of technical projects and will also be qualified to become heads of sections in enterprises. In schools it should be noted that this training is not limited to the technical sector alone. Pupils obtain their technician's diploma at the end of the thirteenth year class by taking a final examination. This diploma is principally

intended to give immediate entry into professional life. It also allows pupils to continue their studies in the higher sector in the speciality in which they have obtained their diploma.

640. The intermediate cycle comprises the tenth and eleventh years with the following divisions: administrative and commercial division; crafts and industrial training division; paramedical and social training division; agricultural training division; hotel training division; artistic training division.

641. The higher cycle of technician training comprises the twelfth and thirteenth year classes. The divisions are the same as for the intermediate cycle. Pupils who pass their final examinations are awarded a technician's diploma. The average annual number of diplomas awarded is 107.

(iii) The technical regime

642. This is the stream which leads in principle to a technical baccalaureate, the diploma of completion of technical secondary education. This stream of study comprises four years, i.e. the tenth and eleventh year classes of the intermediate cycle and the twelfth and thirteenth classes of the higher cycle. The technical regime aims to train administrative and technical managers capable of assuming relatively high positions of responsibility. The curricula therefore include an important component of theory subjects and general education. The final diploma gives access to those who pass it to continue with higher education and general university studies. The certificate places students, in regard to public careers, on an equal footing with those who obtain the diploma of completed secondary education (general). The same is true in principle for those who obtain the technician's diploma.

643. The intermediate cycle at present comprises the tenth and eleventh year classes with the following divisions: administrative and commercial division, paramedical and social division, general division. Pupils must therefore opt in all cases for a specific orientation in their studies. The curriculum includes general subjects as well as professional subjects. After successfully completing the eleventh year class, the pupils in the first two divisions are admitted to the corresponding division in the higher cycle if they fulfil the required conditions.

644. The higher cycle comprises the twelfth and thirteenth year classes. The divisions are the same as in the intermediate cycle. In both divisions, pupils take a nationally organized final examination to obtain their diploma of completion of technical secondary education. Paramedical and social training includes a fourteenth year class. One of the aims of this regime is to train paramedical personnel and educators. The paramedical and social division is distinct in several ways from the other divisions: whereas the tenth and eleventh years provide preliminary training for the paramedical professions, the twelfth, thirteenth and fourteenth years include training in nursing or nursery education in addition to general subjects. This division may thus be regarded as providing advanced vocational training of a high standard. This training is not completed until the end of the fourteenth year, and the diploma of completion of technical secondary education is awarded only then.

3. General secondary education

Organization and structure of general secondary education

645. This type of education was reorganized by the Organization Act of 10 May 1968 which introduced mixture of curricula into education, a diversification of structures, and some new institutions such as the educational psychology and guidance services (SPOS) and educational counselling (see below). The law of 22 June 1989 also reorganized the structure of the higher division of secondary education.

646. The duration of studies is seven years. The objective is to obtain the diploma of completion of secondary education, an education above all focused on preparation for higher education.

647. Secondary education is given at the secondary (general) education establishments or high schools (lycées). In some cases, this type of education is also given, in the lower and middle classes, by technical secondary schools, the technical high schools.

648. The duration of instruction on average is 30 lessons a week of 50 to 55 minutes. School hours are in principle from 8.00 am to 11.45 am and from 2.00 pm to 4.00 pm. On Tuesdays, Thursdays and Saturdays there are no lessons in the afternoons. Some high schools have timetables specially adapted for pupils to practise sport (supported by the sports federations) and music. The school hours are from 8.00 am to 2.00 pm and Saturday is free.

649. The reform of 1989 dealt with three essential points:

(a) In order to postpone choice of specialization, general education was no longer limited, as it was in the past, to the first three years;

(b) Timetables, programmes and teaching methods were reformed;

(c) Wider choice was introduced with an increased range of specializations and optional courses offered in the sixth and seventh years.

650. The general structures of secondary education are as follows:

(a) The lower division comprises the first three classes, which are the seventh, sixth and fifth classes;

(b) The upper division comprises four classes, the fourth, third, second and first classes; it is divided into two cycles:

(i) The polyvalent cycle (fourth and third classes); and

(ii) The specialization cycle (second and first classes).

651. In 1993/94, there were 8 985 pupils in secondary education. 54.4% were girls and 45.6% boys. 93.4% were in public sector schools and 6.6% in private education. After a notable drop in the number of pupils in secondary education in the 1980s, a fairly strong upturn is to be seen in the 1990s.

652. 11.4% of the pupils in general secondary education are foreign. 34.6% of the foreign pupils are Portuguese (3.9% of the total number of pupils), followed by Italian pupils with 17.6%. The percentage of foreign pupils in this order of education has been falling slightly for several years, rising slightly in 1993/94, but is still very much below the number of foreigners in the general population or in the other orders of education. This fact cannot simply be explained by the fact that general secondary education is selective, but is also due to the Act of 1 January 1987 which confers Luxembourg nationality on children born to a Luxembourg mother and a foreign father. Since that date, nearly 4,000 foreign children under the age of eighteen have retroactively acquired Luxembourg nationality and the effects of this Act continue to be felt.

653. Distribution by age reveals retardation in relation to the normal age for attendance in the different grades. Nearly 11% of the pupils in a seventh year class are already one year behind and this proportion increases through successive years to the terminal year where 45% of pupils are over the normal age.

654. To be admitted to the orientation class, which is the transition from primary to secondary education, pupils must pass an entrance examination covering the subjects taught in the sixth year of primary education. In 1995, 2,875 pupils entered for this examination (2 624 in public education and 251 in private schools). The total number of passes was 2,047 (71.2%), with 828 failures (28.8%). The failure rate of Luxembourg pupils was 22.9%, while that of Portuguese pupils was 58.8% and that of Italian pupils 43.4%. *(Source: The results of the 1995 entrance examination. Courrier de l'Education nationale, Innovation and research in education. Ministry of National Education and Vocational Training, November 1995).*

(a) Lower division

655. Pupils who pass the examination are admitted to the secondary seventh grade which is called the orientation year. This class should enable them to adapt to secondary education and get an idea of their chances of success in this type of education. To cope with possible difficulties in adaptation, experts from the educational psychology and guidance service (SPOS) provide continuous psychological and educational counselling and offer appropriate help. Extra lessons are also arranged for this purpose.

656. In 1993/94, 1 673 pupils attended a seventh grade class, of whom 892 (53.3%) were girls and 781 (46.7%) boys. 1 436 pupils passed the entrance examination (85.5%) and 237 (14.2%) failed. It should be noted that the seventh grade has had the best results in recent years and that the failure rate is substantially lower than it was before the 1989 reform. In 1993/94, 213 (12.7%) of pupils were foreign. 43.2% of the foreign pupils were Portuguese. In regard to the promotion of pupils of different nationality, it appears that Italian pupils have a higher success rate that Luxembourg pupils, but that the success rate of Portuguese pupils is noticeably lower than that of all the other nationalities. These rates must be seen in relative perspective, however, as the overall numbers of pupils of different nationalities are quite small. It should be pointed out here that history, biology and geography are taught in the lower cycle in the German language. It should also be noted that it is always French and mathematics that are the most selective subjects. *(Source: General secondary education 1993/94. General statistics and analysis of school results. Innovation*

and research in education. Courrier de l'Education nationale, Ministry of National Education and Vocational Training, June 1995).

657. After the orientation class, pupils opt in the sixth grade either for classical education (with Latin as third language), or for modern education (with English as third language). Apart from Latin, the basic curriculum is the same for modern and classical education. Pupils who choose Latin as their third language start English a year later, in the fifth grade.

658. 1 501 pupils attended a sixth grade class, 827 (55.1%) girls and 674 (44.9%) boys. In the modern section (English as third language), there were 1,216 pupils (81.0%) and in the classical section 285 pupils (19.0%). The overall success rate was 86.0%. In 1993/94, 197 (13.1%) of the 1,501 pupils were foreign. 33.5% of the foreign pupils were Portuguese (in the seventh grade this proportion was 43.2%). In regard to the promotion of pupils of different nationality, it will be noted that unlike the seventh grade, the success rate of the foreign pupils is definitely below that of the Luxembourg pupils. Once again, these rates must be seen in relative perspective as the overall number numbers of pupils of different nationalities are small. French and mathematics are once again the subjects with the highest rates of inadequate marks.

659. 1,430 pupils attended a fifth grade class, 790 (55.2%) girls and 640 (44.8%) boys. In the modern fifth grade, there were 1 131 pupils (79.1%) and in the classical fifth grade 299 pupils (20.9%). The overall success rate was 84.7%. In 1993/94, 153 (10.7%) of the pupils were foreign. 31.4% of the foreign pupils were Portuguese. In regard to the promotion of pupils of different nationality, the same comments as for the sixth grade apply.

(b) Higher division polyvalent cycle

660. After the fifth grade, education divides into branches. Pupils choose, depending on their tastes and abilities, either a literary or a scientific orientation. The main difference between these two orientations is the degree of difficulty of the mathematics syllabus, the basic syllabus for the other courses being the same. These orientations also include optional subjects, of which pupils must choose one or two. Although they are limited to only a few hours, these lessons already enable pupils to give a specific orientation to their studies.

661. In 1993/94, 1 267 pupils were enrolled in a fourth grade class, 325 with a literary orientation (25.6%) and 942 (74.4%) with a scientific orientation. There were 672 girls (53.0%) (74.2% in the literary section) and 595 boys (47%) (54.2% in the scientific section). The rate of overall success was 83.7%. In 1993/94, 131 pupils (10.3%) were foreign. 36.6% of the foreign pupils were Portuguese. For the literary section, mathematics pose the most problems (22.8% of pupils have inadequate marks in this subject), followed by chemistry (17.2% of pupils have inadequate marks). In the scientific section, mathematics also pose the most problems (24.8% of pupils have inadequate marks), followed by physics (10%).

662. In 1993,94, 1 048 pupils attended a third grade class, 352 with a literary orientation (33.6%) and 696 (66.4%) with a scientific orientation. 557 (53.1%) were girls (70.4% in the literary section) and 491 (46.9%) were boys (55.6% in the scientific section). The rate of overall success was 84.8%. In 1993/94, 111

(10.6%) of pupils were foreign. 36.9% of the foreign pupils were Portuguese. The subjects causing the most problems were the same as in the third grade.

(c) Specialization cycle

663. When they are admitted to the second grade, pupils must choose a given section and the orientation of their studies then becomes irreversible.

664. Within the literary orientation, the following sections are foreseen by the law:

(a) Section A1 - main subjects: languages and humanities;

(b) Section A2 - main subjects: human and social sciences;

(c) Section E - main subjects: plastic arts;

(d) Section F - main subjects: musical sciences (simultaneous attendance at a conservatory or music school).

665. Within the scientific orientation, the following sections are foreseen:

(a) Section B - main subjects: mathematics and physics;

(b) Section C - main subjects: natural sciences and mathematics;

(c) Section D - main subjects: economic sciences (mathematics-oriented).

666. In 1993/94, 962 pupils were enrolled in a second grade class, 515 girls (53.5%) and 447 boys (46.5%). Only in sections B and D did the number of boys exceed the number of girls, especially in section B. In all the other sections there were more girls than boys, especially in sections A1, A2 and E. The rate of overall success was 89.5%. 105 (10.9%) of the pupils were foreign. 30.5% of the foreign pupils were Portuguese. Mathematics posed the most problems (20.6% of pupils had inadequate marks here).

667. General secondary education studies are sanctioned by a national examination awarding a diploma of completion of secondary education. This diploma gives access to higher education in all disciplines. In 1994/95, 960 pupils sat the examination, 819 were awarded their diploma and 141 failed. 55% of the candidates were girls and 45% were boys. With regard to promotion, the rates for girls are slightly higher than the rates for boys. By nationality, there is scarcely any difference between the rates of promotion for Luxembourg pupils and the rates for foreign pupils.

4. Provisions common to secondary and technical secondary education

668. Pupils eligible for admission to one of the two orders of education (secondary or technical secondary) may freely choose the high school or technical high school they wish to attend. It is obvious, however, especially at the senior levels, that some courses can only be offered at a limited number of establishments, so that choice is reduced at this stage. Pupils may also take secondary or technical secondary education at a private high school in the Grand Duchy, or go abroad for their schooling. The only exception to the principle of

free choice of a school is for the preparatory classes for technical secondary education. It is stipulated that pupils who wish to follow the preparatory classes must enrol at a technical high school with preparatory classes in the geographical catchment area in which the person with custody of the child is resident.

669. In the high schools and technical high schools it is the class council that decides on the promotion of pupils from one class to the next. Class councils are chaired by the head of the school and are made up of all the teachers who teach courses in the class in question. At the end of the school year, class councils decide on the promotion of pupils on the basis of the results achieved by the pupils throughout the year. The modalities relating to promotion decisions are determined by regulations and include marks in promotion subjects, the average annual mark, coefficients in subjects and possible compensations.

670. Secondary education is sanctioned with recognition by school leaving examinations. There is very little difference in the way these examinations are organized in secondary and technical secondary education. These examinations are organized annually on a countrywide basis, which means that the written question papers are the same in all the schools of the country, differing obviously for the different sections or divisions. The papers are marked by two or three examiners. The final decisions are taken by examination commissions chaired by a government commissioner. Decisions to pass, refer or fail the candidates are made by these commissions. These decisions take account of the marks obtained in the examination, the overall average mark, coefficients in the subjects examined and possible compensations. As from the academic year 1993/94, pupils' marks during the year in the first or thirteenth grade will also be taken into account in deciding their final success in the examination. There is no particular form of appeal foreseen against the final decisions of an examining commission. Since the decisions in question constitute individual administrative acts that could be a source of grievance, pupils may appeal for annulment to the Disputes Committee of the Council of State on the basis of article 31 of the Act of 8 February 1961 establishing the organization of the Council of State. This appeal should be based on one of the following grounds: incompetence, excess and misappropriation of power, breach of the law or of conventions intended to protect private interests. Normally, the Council of State only examines the formal conformity of the decision attacked and does not assess whether the marks awarded by an examiner are appropriate or not.

671. Ministerial regulations of 24 September 1981 establish directives on internal order and discipline in secondary schools and technical secondary schools. The regulations provide for a catalogue of disciplinary sanctions that can be taken against pupils if they offend. These measures range from a simple reprimand to detention and ultimately expulsion from the school. Minor or moderate sanctions may be imposed by any teacher or by the head, but the most severe sanctions (prolonged exclusion and definitive expulsion) can only be taken by the disciplinary council, which is equivalent to the class council. Pupils may make a reasoned appeal to the school head within 24 hours against any disciplinary sanction imposed by a teacher. Against sanctions involving exclusion from lessons or definitive expulsion, pupils or their parents may make a reasoned appeal by registered letter to the Ministry of National Education within three full days after they have been notified of the sanction by registered letter.

672. Education councils, the organization of which is established by the Grand Duchy regulations of 23 May 1991, allow for limited participation by pupils and their parents in the functioning of high schools and technical high schools. There is an education council in every high school and technical high school. In addition to the head and four representatives of the teaching staff, it includes two elected representatives of the pupils and two mandated representatives elected by the parents. The attributions of the education council are the following:

(a) participation in the modification and adaptation of the regulations on discipline and internal order determined by the Minister;

(b) stimulation and organization of cultural and sports activities at school;

(c) annual report on the general situation of the school;

(d) giving opinions on annual budget proposals;

(e) proposals on any issues concerning the life and organization of the school;

(f) elaboration of establishment proposals.

673. Establishment proposals are new elements of decentralization. These are teaching projects that should emanate from the individual schools themselves, and should be stimulated and presented by the education council so that as soon as ministerial approval is received they can be managed as autonomous establishments of public utility. All authorized establishment proposals are coordinated and supervised by an Establishment Projects Coordinating Centre which has legal status and financial autonomy. In future, the Ministry of National Education is intending to further develop the autonomy of the high schools and technical high schools.

E. The European School

674. A very interesting and successful experiment has been attempted with the creation of the European School, whose statutes were signed in Luxembourg on 12 April 1957 by the plenipotentiaries of the Belgian, German, French, Italian, Luxembourg and Dutch governments, that is, the six countries comprising the European Coal and Steel Community. This school was set up with the aim of giving the children of those who came to Luxembourg to establish the first institutions of a united Europe the possibility of following regular education and maintaining contact with their mother tongue and their national culture. It covers the entire period of schooling up to the end of secondary education and is under the supreme direction of the ministers of the signatory countries of the European Union whose responsibilities include education and cultural relations. The statutes of the European School, the protocol of signature and the regulations of the European baccalaureate were approved by the Act of 17 August 1959.

675. In 1995/96, 435 children were enrolled in the nursery school, 1,307 in the primary school, and 1 770 in secondary education, making a total of 3,512 pupils.

F. Differentiated education

676. In application of the Act of 14 March 1973 establishing differentiated education institutes and services, children who on account of their mental, character or sensory particularities are not able to follow ordinary or special education, receive the education required for their condition or situation. This Act has permitted the creation of pre-school and school centres, basic vocational training centres, reception and boarding centres, and observation classes and centres as well as multidisciplinary medico-psycho-educational services.

677. The children in question above are subject to compulsory education. Children undergoing a medical treatment that precludes school education are excused school attendance by decision of the Minister of National Education, on receipt of a certificate established by the attendant physician or a medical specialist and after obtaining the opinion of the National Medico-psycho-educational Commission.

678. The administration of the various differentiated education centres, institutes and services is carried out under the authority of the Minister for the Disabled and Permanent Victims of Accidents in collaboration with the Minister of National Education and Vocational Training. The specific mission, organization and functioning of each institute or service are determined by Grand Duchy regulations, by opinions of the National Commission and, as regards the centres created by the communes or by associations, after consultation with the communes or associations concerned.

679. In the differentiated education institutes and services, education is free of charge, as is medical treatment relating to mental, character or sensory particularities. The State provides equipment and the necessary teaching and rehabilitation materials free of charge and also organizes the transport service for children.

680. It should be pointed out that the Ministry of National Education tries to promote the greatest possible integration of children with special educational needs into mainstream education.

681. The amended Act of 14 March 1973 has resulted in the establishment and organization of numerous centres, institutes and services throughout the country. These centres and institutes may be grouped according to their specific purpose:

(a) Specialized institutes such as the Institute for the Visually Impaired, the Cerebral Palsy Institute, the Institute for Autistic and Psychotic Children, the observation centres, and the Speech Therapy Centre;

(b) The regional differentiated education centres created by the communes and taken over by the State on the basis of the Act of 10 January 1989;

(c) The basic vocational training centres;

(d) The private institutions subsidized by the State;

(e) The regional consultation centres of the child guidance service;

(f) The ambulatory rehabilitation service. This service is for children with disabilities integrated into ordinary education and for pre-school and primary school children at risk of breakdown in school because of severe learning difficulties.

682. The new Act of 28 June 1994 on integration in education clearly highlights the twofold present and future mission of differentiated education, i.e. the education of severely disabled children in its specialized centres and institutes, on the one hand, and assistance and support to disabled children and their special educational needs in the context of ordinary pre-school and primary education classes on the other hand. The Act indeed permits disabled children with special educational needs to receive their compulsory education in the framework of the country's pre-school, primary and post-primary schools. To the two possibilities available in 1973 - attending a regional centre or a specialized institute of differentiated education in Luxembourg, or attending a specialized institution abroad - the Act of 1994 adds two new possibilities for education of an integrated nature - full integration of children with disabilities into pre-school, primary or post-primary education, and partial integration of children with disabilities into a regional centre or specialized institute for differentiated education, complemented by attendance for certain activities at an ordinary school. The Act of 1994 also stipulates that integrated children who are in difficulties with their school work may, if necessary, receive assistance and support organized by the specialized services of differentiated education.

G. The cost of education

683. The average cost of "teacher" resources per pupil has progressed in pre-school education, in 20 years, by 51.3%; in primary education, in 20 years, by 51%; and in post-primary education, in 13 years, by 66%. Whereas in the period 1944-1989, GDP progressed by 37% and the general consumer price index by 9.4%, the mean annual financial cost (teaching and technical staff, teaching equipment and materials, operational costs) has risen in the last five years from 160,143 F to 240,621 F (50.2%) in secondary education and from 157,864 F to 257,949 F (63.4%) in technical secondary education. During the same period the number of lessons per pupil effectively provided has increased by 18.7%.

684. Annual investment in infrastructure has progressed in the same period by 25.6%. *(Source: The educational system in Luxembourg faces change. Schools tomorrow. Ministry of National Education, 1994).*

H. School and vocational information and guidance

685. The Educational Psychology and Guidance Centre (CPOS), created pursuant to the Act of 1 April 1987, has as its mission:

(a) To give psychological and educational guidance to pupils in post-primary education and to collaborate in the educational orientation of sixth year primary school pupils. In 1994, operations in sixth year primary classes covered 3,382 pupils from 114 communes in 235 different classes. As happens every year, about 95% of the parents of all the sixth year primary school children came for interviews in which a psychological and school work report was presented in the form of substantiated orientation advice;

(b) To help students in transition to higher education both in the choice of studies and in the provision of teaching and to give them the assistance they need during their studies. Subsidies for pupils in post-primary education were granted in accordance with a new principle for award in 1994. Files on serious social cases, in particular, were drawn up with the help of CPOS social workers, thus ensuring a more judicious distribution of the financial resources available. Meanwhile, all the applications submitted by pupils considered as being in financial need were examined by an ad hoc committee. The number of "normal" subsidies, that is, not usually exceeding 25,000 Luxembourg francs, was about 900. To this must be added about a hundred cases of pupils in post-primary education abroad, and about fifty files on serious social cases. A system of payment advances was also adopted for the most serious cases to help these pupils to overcome the financial problems related to the start of the school year. Finally, of the 22 million Luxembourg francs credit allocation in question, 3.5 million were awarded to deserving pupils on the recommendation of school heads;

(c) To facilitate the passage of young people from school to professional life;

(d) To generally advise parents, pupils and the institutions and persons responsible for the pupils' education if there are issues concerning the pupils' psychological, psychoaffective and psychosocial aspects of the learning processes;

(e) To act in concertation on the organization of educational psychology and guidance services with the colleges of head teachers and the college of primary education inspectors, in so far as they are concerned, and to ensure coordination of the activities of these services.

686. Every year, the CPOS organizes the Schools and Universities Information Fair which brings together for 2 days about a hundred exhibitors from the world of work and the world of higher education. The continuous upward trend in the number of individual requests for information and guidance was confirmed in 1994. This phenomenon is partly explained by the increasingly uncertain evolution of the employment market and the changes occurring in higher education.

687. There is an educational psychology and guidance service (SPOS) in every high school and technical high school. Every SPOS has at least one psychologist and one or more teachers. In four high schools there is also a social worker. All in all, there are 26 psychologists with 795 hours of attendance, 60 teachers with 437 hours of attendance and 3 social workers with 80 hours of attendance to ensure the smooth running of this service. They have the twofold task of taking preventive action and giving information and guidance. Five SPOS in private schools collaborate with the CPOS.

I. Integration of children of foreign nationality

688. Luxembourg has for many years been a country of immigration. The national demographic situation and the international economic and social context are responsible for the continuation if not the increase of a largely positive migration balance. Cultural and linguistic diversity among school populations is becoming the rule. The demand for education in the language of origin, as

articulated by immigrant communities today, is no longer essentially based on the desire for the possible reintegration of children into the educational system of the State of origin upon return. Rather, it reflects concern to maintain cultural identity and the needs of communication within families and in the immigrant community, as well as the hope of employing rare language skills in the labour market.

689. The subjects taught in the mother tongue organized by the Ministry of National Education and Vocational Training in collaboration with communal administrations as an integral part of the normal primary school timetable in 1994/95 reached a total of 1 056 pupils in 128 groups. Twelve communes organize lessons in the Portuguese language and four communes organize lessons in the Italian language. In some of these communes, extending the availability of lessons in the mother tongue by residential neighbourhoods is envisaged. In some communes with a high percentage of foreign pupils, it is difficult to organize lessons in the mother tongue because of the increase in the school population in general and the related infrastructural problems.

690. The present model provides for the mother tongue to be used to access the content of the Luxembourg school curriculum (two hours of science awareness from the first to the fourth years, two hours of history, geography or natural sciences in the fifth and sixth years of education).

J. Financial assistance for students in higher education

691. Although students in higher education no longer come within the scope of application of this Convention, it should be noted that the State of Luxembourg participates financially in the charges resulting from enrolment in a higher education establishment. The number of applications for financial assistance is continuously increasing; in 1984/85, the number of applications was 2 350 while in 1994/95 the number of applications for the winter semester was 4,052.

IX. LEISURE, RECREATIONAL AND CULTURAL ACTIVITIES (Art. 31)

A. Recognition of the right of the child to leisure and to recreational, cultural and artistic activities

692. In the Act of 18 October 1969 on the protection of children and young workers the Luxembourg Legislature had already implicitly recognized the right of children to participate fully in cultural and artistic life, although this legislation makes a distinction between children aged under 15 years and adolescents aged 15 to 18 years.

693. In the Act of 4 October 1973, amended by the Acts of 24 February 1984 and 1 June 1989, the Legislature introduced a special "education leave" in order to promote the organization of recreational, artistic and cultural activities for children:

(a) By encouraging the training of youth leaders and personnel of youth movements and cultural and sports associations;

(b) By facilitating the supervision of these activities.

Education leave is limited to 60 days in a lifetime and to 20 days in any two-year period. In 1995 an unrestricted appropriation of 14 million francs for education leave was included in the State budget. This appropriation has increased by 75 per cent over the past five years.

694. Recognition of the right of the child to play and to engage in recreational, cultural and artistic activities was given concrete form in the Act of 27 February 1984 creating the National Youth Service under the authority of the Minister responsible for youth questions "with the task of constituting a mechanism of contact, support, training and information for young people. Within these terms of reference the Service carries out the following tasks:

(a) Assisting and advising young people and promoting any initiative to help them to use their leisure time in an educational manner;

(b) Assisting with the leadership work of organizations offering leisure activities for young people;

(c) Contributing to the training and further training of the personnel of youth organizations and other organizations offering leisure activities for young people;

(d) Assisting the body representing young people at the national level with the organization of its administrative secretariat;

(e) Facilitating the liaison of youth organizations and movements with the Government and with the State and commune authorities;

(f) Assisting the commune authorities and private associations to create young people's meeting places and clubs and provide them with leaders;

(g) Managing and providing leaders for the youth centres attached to the Service;

(h) Organizing and coordinating extracurricular activities;

(i) Organizing socio-cultural activities, either alone or in collaboration with public or private bodies;

(j) Compiling documentation and issuing publications relating to its objectives;

(k) Carrying out studies on young people.

695. Successive Governments have emphasized the importance which they attach to youth questions, and in 1989 these questions were entrusted to a Secretariat of State for Youth headed by a minister, while 1994 saw the establishment of a Ministry for Youth, which, pursuant to the Grand-Ducal Order of 1 February 1995, has responsibility for the following functions: general youth policy; National Youth Service; extracurricular education and leisure activities; relations with youth movements; Higher Council on Youth; training of leisure-activity leaders and personnel; multi-purpose and residential centres for young people; and education leave. By expressly assigning responsibility for general youth policy to the Minister for Youth, the Grand-Ducal Order of 1 February 1995 maintained

and confirmed his coordination role as established by the Legislature in the Act of 27 February 1984 creating the National Youth Service, which states in article 1: "The Minister [for Youth] is responsible for the implementation of the Government's youth policy and to this end coordinates the activities of the various ministries concerned". By the Grand- Ducal Order of 16 January 1987 the minister responsible for youth questions has at his disposal a Higher Council on Youth, a consultative body made up of civil servants from various ministerial departments and representatives of youth organizations, which was created in order to ensure consultation of the various partners and true participation by young people in the determination of youth policy.

B. Institutions and forms of leisure activity for children

1. Public bodies

(a) The National Youth Service

696. Since its establishment the National Youth Service has taken a number of initiatives:

(a) Promotion and support of many extracurricular activities, such as nature classes, open-air activities, study of the national heritage, creative activities, environmental education, instruction about the third world, encouragement of a positive attitude to life, etc.

(b) Partnership in a network of nine residential homes, which can accommodate groups of young people for the many activities organized by or in conjunction with the Service. In 1994 the Service's teachers and leaders worked with 10,000 young people in these centres;

(c) Initiation of the National Information and Exchanges Centre for Young People (CNIEJ), which operates as a non-profit association under an agreement with the Ministry for Youth and has the following objectives, amongst others:

(i) Compiling and processing all information affecting young people and of interest to them;

(ii) Disseminating information to young people and developing (in its centres) initiatives to facilitate their access to information;

(iii) Participating in the operation and organization of the agency responsible for the national coordination of the "Youth for Europe" programme, in particular by taking responsibility for its administrative and financial management.

In 1994 the CNIEJ received 6,885 requests for information, an increase of 179 per cent over the 2,467 requests received in 1991;

(d) Development of a regional leadership system, which since 1988 has led to the establishment of 14 meeting, information and activity centres for young people (CRIAJ). These centres operate as non-profit associations under agreements with the Ministry of Youth and their local communes. Their purpose is

to promote the participation and social integration of disorganized and disadvantaged young people and to combat all forms of social marginalization. The plan is to have 20 centres of this type by 2000, located throughout the country. Since the provision of objective and comprehensive information to young people is an essential means of stimulating their active participation in life in society and since it is moreover impossible to establish these centres in all communes, there is also a plan to create in the near future a mobile information unit working from an "info-van" or "info-bus";

(e) Active involvement in the development of prevention activities in the battle against drug addiction, racism, xenophobia, antisemitism and intolerance by participating in the awareness-raising campaigns on these various topics, in particular by means of mobile exhibitions;

(f) Training arrangements for leisure-activity leaders. Since 1990 an annual average of 724 young people aged over 16 have participated in this training. Since 1987 2,024 diplomas have been awarded to young people who have completed the training course for leisure-activity leaders;

(g) Enabling thousands of children and young people to participate in socio-educational activities, most of them established at the request of young people and youth organizations. The following summary shows the participation of young people in 1994 in the 150 activities offered in various fields;

	Boys	Girls	Total
Training of leisure-activity leaders	321	474	795
Camps and holiday centres	494	610	1,104
Cultural heritage	90	68	158
Ecology and environment	646	576	1,222
Civic education, positive attitude to life, European dimensions, third world	225	264	489
Artistic activities	164	189	353
Open-air sports activities	276	240	516
Total	2 216	2 421	4 637

(h) Active cooperation with Mérite-Jeunesse Benelux (MJB), a State-approved institution operating under the patronage of HRH the Grand Duke. The Board of Governors is chaired by HRH Prince Guillaume. The MJB was established in September 1993 with the objective of encouraging young people aged 14 to 25 to devote time to a varied programme of activities to help them to develop their personal capacities and confirm their role in society. The MJB badge is awarded in three degrees (bronze, silver, gold). For each degree it is necessary to complete four types of activity varying in duration according to the degree:

(i) Voluntary service: taking part in activities to help others;

(ii) Expeditions: developing a spirit of adventure and discovery;

(iii) Talents and skills: discovering and/or developing talents and skills;

(iv) Sports activities: developing a taste for physical commitment and enhancing skills;

(i) Initiation in 1995, in collaboration with the psychology and psycho-pedagogic and social research section of the Higher Institute of Pedagogic Studies and Research, of a study on the situation of young people in Luxembourg. This research should facilitate the development of a pedagogic approach which will have an impact not only on the daily work of youth centres but also on the training of leaders, educationalists and teachers. The purpose is to create a source of information about the needs of young people and the processes of their socialization and development of a sense of identity in a multi-cultural Luxembourg.

(b) National education

697. For about 10 years now the head teachers of secondary schools have had the option of adapting their daily timetable, in agreement with parents and pupils, to allow the flexible scheduling of classes so that the children can engage in sports or cultural activities every weekday from 2 p.m. and on Saturday mornings.

(c) Commune authorities

698. Some commune authorities in the big towns regularly organize recreational and cultural activities for children. Some of them, such as Luxembourg City, have permanent services for these activities. Apart from cinema and theatre performances specifically for children, Luxembourg City has a Sports Service, a Learning and Recreation Guidance Centre (CAPEL), and a Youth Service.

(d) Private organizations funded by the public authorities

699. These organizations include:

(a) The Primary School Sports Associations League (LASEP), which had 4,960 registered members in 1994;

(b) The Luxembourg Students' Sports Associations League (LASEL), which had 4,500 members in 1994;

(c) The "Art à l'Ecole" association, founded in 1911, is today represented throughout the country. It works closely with the Ministry of National Education, the Ministry of Culture, the primary schools inspectorate, and the commune authorities of Luxembourg City;

(d) "Panda-Club" is a non-profit association operating under an agreement with the Ministry of Culture and in close cooperation with other ministries, offices and services. In 1994 it organized 180 activities for a total of 4,253 children of school age. It also publishes a magazine, to which 1,000 primary school classes subscribe.

2. Private bodies

(a) General Conference of Luxembourg Youth (CGJL)

700. The CGJL was founded in 1961 and reconstituted in 1987 as a non-profit association. It embraces 25 youth movements distributed into four categories according to their social objective:

(a) Political youth movements;

(b) Trade-union youth movements;

(c) Scouts and Guides;

(d) Socio-cultural and leisure movements for young people.

701. Its objectives are to:

(a) Act as the representative body of youth associations in Luxembourg;

(b) Act as the lead spokesman for youth organizations and defend the interests of young people in all the agencies established by the public authorities;

(c) Represent youth associations at the international level;

(d) Coordinate the common activities of youth movements.

The CGJL represents approximately 30,000 young people aged 15 to 30 years.

(b) Union Grand-Duc Adolphe (UGDA)

702. The Union Grand-Duc Adolphe is a federation of music, choral, theatre and traditional-dance societies. It represents 329 societies and 87 local music schools with a total of 6,014 members aged under 18, including 2,240 music-school students.

(c) Guides and Scouts

703. Luxembourg has four Guide and Scout troops:

	Groups	Members
Lëtzebuerger Guiden u Scouten (LGS)	83	5,348
National Federation of Scouts and Guides	26	1,848
Association of Luxembourg Girl Guides	4	187
National Federation of European Scouts and Guides	5	220
Total	118	7,602

(d) Sports federations and sports and leisure associations

704. In addition to some 35 federations of competitive-sport associations for adults and children, there are also some 15 sports and leisure associations or clubs.

(e) Other holiday and leisure-activity services

705. A number of organizations such as Caritas, the Red Cross, Foyer de la femme, Ligue luxembourgeoise de l'enseignement, Inter-actions faubourgs, Groupement Ardennes-Eifel, and Jeunes et patrimoine organize activities, mainly recreational afternoons and holiday centres during the school holidays. An annual average of about 2,500 children take part in these activities.

(f) Youth clubs

706. In 1995 the country's 118 communes had 134 youth clubs operating as non-profit associations or informal associations.

X. CHILDREN IN CONFLICT WITH THE LAW

707. As we reported in section I.B on the history of the protection of children and young people, the administration of justice for children and the judicial treatment of children in conflict with the law have undergone considerable changes in Luxembourg during the second half of this century under the influence of various philosophical trends, scientific progress, and the experience of our neighbouring countries. The relevance or the deficiencies of our national legislation in relation to the provisions of the Convention can be illustrated by examining the powers of the various agencies, the judicial procedures, and the measures and penalties which the courts can impose on minors who have broken the criminal law.

708. What arrangements and psycho-pedagogic measures are available to us for dealing with children deprived of their liberty in one way or another? Are these measures suitable for handling the problems confronting these young people and are they consistent with their best interests and the needs of their age group? These are the questions which we must ask ourselves before examining the action taken to facilitate the rehabilitation and social reintegration of children, no matter what the difficulties they are experiencing.

A. Administration of juvenile justice (art. 40)

1. Powers of the criminal investigation police and examining magistrates

709. According to article 9 et seq. of the Criminal Investigation Code, the task of the criminal investigation police is "to ensure the maintenance of public order, safety and health, record violations of the criminal law, gather evidence of such violations, seek out the perpetrators, obey the instructions of examining magistrates and carry out their commissions once a judicial investigation has been opened". The performance of this task is regulated by articles 30-48 of the Code.

710. Thus, on the basis of article 45 the police may check the identity of any person regardless of whether he is an adult or a minor:

(a) If there are indications that this person may have attempted to commit, has committed or is about to commit a crime or other offence;

(b) If the person is likely to be able to provide information of use in an investigation;

(c) If the person is being sought by the administrative or judicial authorities.

If the person refuses to disclose his identify or if he is unable to prove it, he may be detained for a maximum period of four hours for the purpose of verification. Immediately he is detained he is entitled to inform his family or any other person, and a telephone must be made available to him.

711. If a person is caught in flagrante delicto, the criminal investigation police may make all the necessary checks, including a search of baggage and persons, adults or minors, by a police officer of the same sex. The police must immediately notify the Public Prosecutor's Office of any crimes or other offences which come to its attention, and from that moment the Public Prosecutor's Office directs the activities of the members of the criminal investigation police. On the completion of their investigations they must submit their reports directly to the Public Prosecutor's Office; all the papers and documents connected with these reports are submitted at the same time; and impounded items are placed at the Office's disposal (CIC, art. 12). On the other hand, when the person has not been caught in flagrante delicto and the investigation is only preliminary, a body search or any other search may be carried out only with the written consent of the person at whose home the search takes place (CIC, art. 47). Without such consent, these searches may be carried out only on the strength of a warrant issued by an examining magistrate.

712. No legislative text requires the presence of a parent or the legal representative of a minor during his questioning by the authorities, although an offence committed by a minor must be notified to his parents or his legal representatives. However, the minor may claim the assistance of a lawyer during his questioning. Such assistance is in fact mandatory if the minor is brought before an examining magistrate.

713. According to article 33 of the Protection of Young People Act of 10 August 1992, "an examining magistrate may open an investigation on the basis of a brief from the Public Prosecutor's Office or of his own accord, either in a case of flagrante delicto or pursuant to the ordinary rules governing the opening of investigations, only in exceptional circumstances or in the event of absolute necessity. His task is only to establish and examine the facts of the charge laid against the minor". However, "in exceptional circumstances and in an emergency", pursuant to articles 24, 25 and 26 of the Act an examining magistrate may make a temporary custody order against the minor in question. He may either leave him with the persons having custody of him or remove him from his home and entrust him temporarily to a relative or other individual, an association, a charitable institution or public or private school, a re-education establishment, a disciplinary establishment, or any other suitable special establishment. Lastly, in the event of absolute necessity or when the

measures mentioned above cannot be implemented, the minor may also be consigned temporarily to a place of detention for a period not exceeding one month. Whatever the temporary custody order made by the examining magistrate, he must immediately inform a juvenile court judge, who then begins to exercise his powers. In other cases, when the matter has not been brought before an examining magistrate and urgent action is required, the temporary custody measure may be ordered by a juvenile court judge, or by the Public Prosecutor's Office if the matter cannot usefully be brought before a juvenile court judge. The lifting of a temporary custody order made in accordance with articles 24, 25 and 26 may be requested in all cases by application to the competent court. A decision must be taken on the application within three days of its submission, once the Public Prosecutor, the minor or his lawyer, his parents, guardian or other persons having custody of the minor have been given an oral hearing (art. 27).

714. "On completion of the investigation the examining magistrate, on the application of the Public Prosecutor's Office, makes a dismissal order or an order of committal to a juvenile court. These orders may be challenged by the Public Prosecutor's Office, the minor, or his parents, guardian or other persons having custody of him. Such challenges are heard by the Indictment Chamber and must be entered in accordance with the procedures and time limits specified in the Criminal Investigation Code" (art. 33 of the Act of 10 August 1992).

Police statistics on children in conflict with the law

715. The figures given below were provided by the Information Processing and Transmission Service of the Police/Gendarmerie. They reflect the number of reports on minors made by the police forces over the past five years; there is no separate category for children having reached the age of reason and acting with knowledge of what they were doing, and no indication is given of the number of minors involved. These figures have at least the merit of providing a picture of the incidence of the various offences committed by children.

Offence	1990	1991	1992	1993	1994
Aggravated theft	270	162	159	117	151
Simple theft	149	593	144	166	155
Attempted theft	40	0	0	0	30
Receiving stolen goods	19	10	23	5	18
Deliberate assault and battery	39	43	88	48	53
Indecent acts without violence	7	13	4	3	7
Indecent acts with violence	14	30	11	8	15
Kidnapping of minors/prostitution	0	2	0	0	1
Fraud/confidence tricks	9	0	2	2	6
Offences against the State	4	2	19	1	5
Offences against the public faith	3	0	0	2	0
Offences against public safety	7	2	1	11	6
Drugs	222	60	44	42	57
Criminal damage, vandalism	104	150	145	82	163
Traffic offences	51	45	70	43	71
Total	**938**	**1,112**	**710**	**530**	**738**

716. Although this table shows a downward trend since 1990-1994, the annual average of 806 recorded offences nevertheless represents an increase over 1982-1987, when the annual average was 574.

2. Judicial proceedings against minors having infringed the criminal law

(a) Minimum age (Convention, art. 40, para. 3)

717. It must be pointed out first of all that for the moment Luxembourg's legislation contains no provisions consistent with article 40, paragraph 3 (b), of the Convention for dealing with children suspected or convicted of infringing the criminal law without recourse to judicial proceedings.

718. On the other hand, article 2 of the Protection of Young People Act of 10 August 1992 states that "a minor aged under 18 years at the time of the facts who is alleged to have committed a violation of the criminal law shall not be brought before a criminal court but before a juvenile court, which shall order with respect to the minor one of the measures of custody, protection or education specified in article 1". However, according to article 32 of this Act, "if the minor was aged at least 16 years at the time when he committed the offence, the Public Prosecutor's Office, if it considers a measure of custody, protection or education to be insufficient, request authorization from the juvenile court judge to follow the normal procedures in the ordinary courts. The juvenile court judge shall rule on the request by making an order, giving an explanation of his reasons but without ruling on the facts. The decision granting or denying such authorization shall be notified to the minor, his parents, guardian or other persons having custody of the minor...". An appeal against the decision may be submitted to the juvenile appeals court by the Public Prosecutor's Office, the minor, his parents, guardian or other persons having custody of him. The time limit for such appeals is 10 days (art. 34). A juvenile court may also decline to hear the case of a minor aged under 16 years which has been brought before it and remit the case to the Public Prosecutor's Office so that proceedings may be taken against the minor in accordance with the normal procedures in the ordinary courts, if the juvenile court considers the measures available to it to be insufficient (art. 32).

(b) Special juvenile court rules of procedure

719. In article 40, paragraphs 1 and 2, of the Convention States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces his respect for the human rights and fundamental freedoms of others and which takes into account his age and the desirability of promoting his reintegration and of his assuming a constructive role in society. To this end the Protection of Young People Act of 10 August 1992 contains a number of provisions setting forth judicial rules of procedure and special measures for children suspected or accused of infringing the penal law.

720. With regard to juvenile court procedures, it should be noted that pursuant to article 19 of the Act the legislation concerning criminal prosecutions is applicable to all the procedures covered by the Act, subject to the exceptions contained therein.

(c) Exceptions

721. First of all, according to article 21 of this Act, "a summons issued at the request of the Public Prosecutor's Office must, on pain of nullity, be addressed to the parents, guardian or other persons having custody of the minor and to the minor himself. By an exception to article 386 (1) of the Criminal Investigation Code, a summons addressed to a minor aged under 12 years may be delivered to his legal representative". In order for the child's case to be heard without delay, "the time limit for a summons is eight days even in the case of persons located outside the Grand Duchy".

722. The wording of the summons is clearly a matter for the Public Prosecutor's Office to decide in the light of the circumstances:

(a) On the basis of the infringement of the criminal law;

(b) On the basis of article 7 of the Act of 10 August 1992, which authorizes a juvenile court to take one of the measures specified in article 1 with respect to minors who habitually absent themselves from school, engage in indecent behaviour, seek money from gambling, trafficking, activities exposing them to prostitution, begging, vagrancy, or crime, or whose physical or mental health, education or social or moral development are at risk;

(c) On both these grounds.

723. At least three days before the hearing, the parties and their lawyers are informed of the deposition of the file with the clerk of the court and they may study it. However, evidence concerning the personality of the minor and his social and family environment may be consulted only by the parties' lawyers (art. 28). By this provision the Legislature wishes to avoid nullifying the efforts of the social workers and psychologists and the juvenile court judge himself to help the minor and his family. For the Legislature it is important to protect the confidentiality of such information by prohibiting its disclosure.

724. With regard to a child's right to be represented by a lawyer, article 18 of the Act of 10 August 1992, as amended by the Legal Aid Act of 18 August 1995, states that "the minor, his parents or guardian and any other persons who have custody of him may choose a counsel or request the juvenile court judge to appoint one on their behalf. A counsel is appointed for the minor by the juvenile court judge, even in the absence of any request to this effect, when the minor is charged with a criminal offence in respect of which a temporary custody order has been made against him. A counsel is appointed in all other cases when the best interests of the minor so require...".

725. During the hearing itself:

"In accordance with article 29, the case of each minor shall be considered separately without any other minor being present, except when a confrontation is required.

The juvenile court shall hear a minor capable of making judgements, unless his best interests indicate otherwise.

If the interests of the minor so require, he may be excused from appearing at the hearing or ordered to withdraw during all or part of the hearing, or be heard in the council chamber in the presence only of the parties' lawyers.

At any time during the hearing the court may withdraw to the council chamber to hear evidence of the minor's personality from experts and witnesses, his parents, guardian or other persons having custody of him.

Only the parties' lawyers are entitled to attend proceedings in the council chamber. The court may, however, summon the minor to take part in such proceedings when it sees fit".

726. If after hearing all the parties the court considers that it still does not have all the necessary information to make a decision in the best interests of the child, it may proceed to examine the minor's personality, in particular by ordering a social investigation, medical, psychological and psychiatric examinations, observation of his behaviour, an education counselling report, etc... (art. 23). Throughout such proceedings concerning the application of the measures specified in article 1, the juvenile court may make the necessary custody orders (arts. 24 and 26). The duration of such orders has already been mentioned above in the paragraph on the powers of examining magistrates.

727. It should also be noted that according to article 16 of the Protection of Young People Act civil actions resulting from offences committed by children and notified to the juvenile courts may be brought only before a civil court. Accordingly, an injured third party has neither the right to bring the case before a juvenile court by direct summons or the right to appear at the hearing as a claimant for indemnification. By this provision the Legislature wishes to prevent the juvenile courts from engaging in a debate in which the question of the personality of the child offender might easily be pushed aside by concerns about settling private claims. It is important for the courts not to allow themselves to be distracted from their essential task of ensuring the social rehabilitation and moral protection of young people.

728. On the conclusion of the hearing of the parties before a juvenile court:

"The decisions of the court shall be subject to appeal, within the legal time limits, by the Public Prosecutor's Office and be subject to a formal challenge or appeal on the part of the minor, his parents, guardian or other persons having custody of him.

The appeal shall cover, unless it is limited, the whole of the operative part of the decision. It shall be heard by the juvenile appeals chamber.

The juvenile court may order the provisional enforcement of its decision, giving its reasons for this part of the decision" (art. 30).

(d) Statistics

729. The following statistics furnished by the Ministry of Justice concerning the country's two juvenile courts require some prior comment:

(a) Decisions: this heading shows the number of decisions taken by the juvenile court at the request of the Public Prosecutor's Office, without specifying how many minors were involved or whether the summons were based on the Criminal Code or on article 7 of the Protection of Young People Act of 10 August 1992, or on both these instruments;

(b) Orders: this heading shows the numbers of decisions which the juvenile court judge is authorized to take, without involvement of the Public Prosecutor's Office, on the basis of articles 9, 23, 32 and 37 of the Protection of Young People Act. Thus these orders can apply only to children in conflict with the criminal law;

(c) Temporary custody orders: since the entry into force of the Protection of Young People Act, the juvenile courts and their judges have been empowered, in accordance with articles 24, 25 and 26, to make, in urgent cases and in the best interests of the minors, custody orders entrusting them temporarily to a relative or other individual, a public or private charitable or educational institution, a re-education establishment, a disciplinary establishment, a place of detention, or any other appropriate establishment. This heading, like the other two, shows only the number of temporary custody orders made by the various courts without specifying the number of minors concerned or the person or institution to which they were entrusted.

Court	LUXEMBOURG			DIEKIRCH		
Year	Decisions	Orders	Temporary custody orders	Decisions	Orders	Temporary custody orders
1990	235	132	-	44	0	-
1991	264	121	-	49	0	-
1992	271	124	-	63	0	-
1993	259	52	105	63	0	-
1994	239	45	85	80	3	8
1995	210	42	171	93	3	45

B. Measures and penalties which may be imposed on minors infringing the criminal law (art. 37 (a) and (b))

1. Measures available to the juvenile courts

730. In the preceding section, on judicial proceedings against minors infringing the criminal law, it was explained that in accordance with article 2 of the Act of 10 August 1992 a minor under the age of 18 who is accused of a criminal offence is not brought before a criminal court (except in the event of committal for trial) but before a juvenile court, which imposes on the minor one of the measures of custody, education and protection specified in article 1.

731. Article 1 states:

"With regard to the minors who appear before it, a juvenile court may, depending on the circumstances:

1. Reprimand them and entrust or return them to the persons responsible for their custody, enjoining such persons, when necessary, to supervise the minors better in future;

2. Entrust them to the educational assistance service;

3. Place them under supervision with any trustworthy person or in any appropriate establishment, even abroad, with a view to their accommodation, treatment, education, instruction or vocational training;

4. Place them in a State re-education establishment. (The court may however order this measure to be suspended, specifying the conditions of the suspension (art. 10)).

The court may allow the minor to continue to live at home, subject to one or more of the following conditions:

(a) Regular attendance at an ordinary or special school;

(b) Performance of educational or voluntary work consistent with his age and resources;

(c) Compliance with the educational and medical instructions of an education counselling or mental health institution".

732. The court may at any time order a minor subject to one of the measures described above in paragraphs 3 and 4 to be supervised by the educational assistance system.

733. Article 5 states: "If it is established by an expert medical report that the minor suffers from a condition of physical or mental impairment rendering him incapable of controlling his actions, the juvenile court shall order him to be placed, even abroad, in a special establishment appropriate to his condition".

734. According to article 6: "If an order of placement in an ordinary custody, education or protection establishment is insufficient owing to the minor's bad conduct or dangerous behaviour, the court shall order him to be confined in a State correctional establishment".

735. All the measures ordered by a juvenile court pursuant to articles 1, 5 and 6 terminate automatically at the age of majority. However, they may be extended:

(a) Up to the age of 21 years in the case of a crime (art. 3);

(b) Up to the age of 25 years in the case of a crime punishable by rigorous imprisonment;

(c) Up to 20 years beyond the age of majority in the case of a crime punishable by hard labour (art. 4).

736. In all cases in which a juvenile court has ordered one of these measures against a minor having infringed the criminal law, the measure is reviewed every three years if it has not meanwhile lapsed. In all cases in which a court rules on a review it proceeds on the application of the Public Prosecutor's Office, and hears all the parties; its decision may be appealed (art. 37).

2. Penalties available to the criminal courts

737. In the event of committal for trial, pursuant to article 32 of the Act of 10 August 1992, of a case concerning a minor who has committed an offence and is aged over 16 years at the time of the offence, it is clear in the light of the preparatory work on the drafting of the Act that the provisions of the ordinary criminal law are directly applicable to such a case (Bill No. 1396, p. 20, paras. 9 and 10, and draft Order No. 4/94, Criminal Chamber, 7 March 1994, p. 19). In view of this same preparatory work, the Legislature did not consider it necessary to provide in respect of such minors brought before a criminal court pursuant to article 32 any reduction of the penalties provided by the Criminal Code. The legislation on mitigating circumstances does in fact allow a judge to make a large reduction in the penalty normally applicable, so that the Legislature saw no point in lowering the maximum.

738. Article 37 (a) of the Convention provides that neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age.

739. Capital punishment was abolished in Luxembourg by the Act of 20 June 1979 and replaced by the penalty of hard labour for life. In accordance with the information given above and with the domestic law, this penalty is in principle applicable to minors unless the legislation on mitigating circumstances allows the judge to commute it to long-term hard labour.

740. Following the entry into force for Luxembourg on 2 January 1994 of the Convention on the Rights of the Child, which was approved by the Act of 20 December 1993, the Criminal Chamber of the Court of Appeal, in its decision No. 4 of 7 March 1994, "acknowledges that the 1989 Convention is directly applicable to the penalties which may be imposed on minors who infringe the criminal law, given the principle that the international rule is "self-sufficient" if its operative part itself states a mandatory rule of conduct for the persons covered by the rule; this is the case if the rule is sufficiently clear and precise to allow internal application without any other action by the national authorities, as for example in the case of the application of article 37 of the Convention to juvenile offenders" (Revue trimestrielle de droit familial, 1991, p. 495 et seq., study by Viviane Pouleau on the application of the Convention on the Rights of the Child in Belgium's internal legal system; Recueil Dalloz Sirey, No. 4 of 27 January 1994, p. 34 et seq., Deutsche Bundestag, Drucksache 12/42 of 24 January 1991, Bill on the Convention on the Rights of the Child of 20 November 1989; for the opposite position see: French Appeals Court, First Civil Chamber, decisions of 10 March 1993 and 2 June 1993, R.D.S., cited above).

741. Pursuant to the principles described above, the court must thus limit itself to imposing a maximum penalty of long-term hard labour. The maximum penalty of long-term hard labour provided by the Criminal Code is 15 to 20 years.

742. Although a sentence of deprivation of liberty must be as short as possible, in accordance with article 37 (b) of the Convention, it must be determined, pursuant to Order No. 4 of 7 March 1994, in the light of the minor's behaviour and personality, and the seriousness of the offence must also be taken into account.

C. Treatment of children deprived of their liberty by any form of detention, imprisonment or placement (art. 37 (c) and (d))

743. With regard to the recommendation contained in article 37 (d) of the Convention to ensure that every child deprived of liberty shall have the right of prompt access to legal and other appropriate assistance, under our legislation minors always have an opportunity to appeal against any measures or decisions depriving them of their liberty, even temporarily. In the best of cases, a ruling is made on such appeals within three days of their filing. In accordance with article 18 of the Act of 10 August 1992, a lawyer may be made available to such children, even without any request to that effect. Moreover, such assistance is compulsory when a minor appears before an examining magistrate. In addition, all these establishments have the services of social workers and psychologists, who can furnish minors support and assistance.

744. Before considering the kinds of "detention" to which children can be subjected (art. 37 (c)), it is worth recording briefly the ways in which they can be deprived of their liberty:

(a) By an order of a juvenile court for placement in a State re-education establishment in accordance with article 1, paragraph 4, of the Act of 10 August 1992;

(b) By confinement in a State correctional establishment in accordance with articles 6 and 24 of the Act of 10 August 1992;

(c) By an order of temporary custody in a place of detention for a term not exceeding one month in accordance with articles 24 and 26 of the Act of 10 August 1992;

(d) By a sentence of a criminal court to a term of imprisonment in accordance with the provisions of the Criminal Code.

1. Placement in a State re-education establishment (State Socio-Educational Centres)

745. The Criminal Code of 16 June 1879 was still in force when the legislation was enacted to separate minors from adults in prisons and place them in special education and rehabilitation institutions. But the children's reformatory of that time still operated within the adult prison. It had two workshops providing training in carpentry and dressmaking. Academic education was introduced, and on 28 August 1887 the first teacher was appointed. The transfer of the reformatory from the prison took place in 1891, and it was installed at Stadtgrund. After the Second World War this reformatory was abandoned and replaced by the institutions at Dreiborn (boys) and Niederfeulen/Schrassig (girls). Up to 1991 these establishments were governed by the Prisons and Reformatories Act of 9 January 1984. They operated under the Ministry of Justice and the general management and supervision of the Procurator General.

746. By the Act of 12 July 1991 the reformatories for boys at Dreiborn and girls at Schrassig were renamed "State Socio-Educational Centres (CSEE)" and transferred from the Ministry of Justice to the Ministry of the Family. According to article 2 of this Act, the centres are obliged to accept minors entrusted to them by decision of the judicial authorities pursuant to either the Protection of Young People Act or any other legislation. They may also take in other minors. At the request of the person concerned, education, training and socio-familial reintegration activities in the centres can be continued beyond the age limits established in the Protection of Young People Act.

(a) Objectives of the State Socio-Educational Centres (CSEE)

747. According to article 3 of the Act of 12 July 1991 the CSEE have the following objectives:

(a) A socio-educational objective: to receive, accommodate and train the inmates by providing individualized teaching designed to achieve their personal development, the development of their social faculties, and their proper social integration;

(b) A counselling objective: to carry out various activities designed to introduce children to the world of work and secure their employment or re-employment, provide socio-psychopedagogic counselling, and moral and religious support, as well as social counselling outside the institution for former inmates and their parents;

(c) A mission of custody and protection: to provide by appropriate means for the custody and protection of the minors within the framework of the Protection of Young People Act;

(d) A mission of academic and vocational training: to provide, as needed, classes of primary, preparatory, special and secondary technical education and in-house vocational training.

748. The Act of 12 July 1991 on the organization of the State Socio-Educational Centres has been supplemented by:

(a) The Grand-Ducal Regulation of 9 September 1992 dealing with security and discipline in the centres;

(b) The Ministerial Regulation of 20 May 1993 concerning the internal organization of the centres; and

(c) The Grand-Ducal Regulation of 3 September 1995 establishing a socio-educational unit in the centres.

749. In their current state of development the CSEE operate as semi-open units. Their directors encourage contacts between inmates and their families and the schools and socio-familial institutions which have played a part in their instruction, which are still assisting them or which may do so in the future. Inmates can enrol in schools or take jobs outside the centres. Decisions on such matters take into account any orders of the judicial authorities, the socio-educational and psycho-therapeutic arrangements which have to be made for each child, and his behaviour and readiness to cooperate in the integration or

reintegration work. According to article 32 of the Protection of Young People Act, an inmate's day release and leave are determined by agreement with the director. Similarly, the visiting days and hours for inmates' close relatives or other visitors are authorized by the director.

750. In principle, all inmates are entitled to an amount of pocket money determined by their age and conduct. Their income, wages and allowances are administered by the centre. Depending on his capacities and the regime under which he has been admitted, an inmate may have a say in the administration of his funds.

(b) Internal security in the centres and disciplinary measures

751. According to the Grand-Ducal Regulation of 9 September 1992 inmates are subject to supervision for collective and individual education purposes. A headcount of inmates may be carried out whenever necessary. For reasons of security, the Director can order the following measures:

(a) Body searches;

(b) Searches of dormitories and individual rooms;

(c) Searches of inmates' personal effects;

(d) Monitoring of inmates' correspondence;

(e) Confiscation of objects, drugs and other substances which may endanger the health or safety of the inmates, the staff or third persons;

(f) Temporary locking during day or night of all or some of the dormitories and individual rooms.

752. Inmates may be searched only by a person of their own sex. Measures (a), (b), (c) and (e) may be carried out only in the presence of at least two officials.

753. The carrying and use of arms and ammunition are prohibited both for the staff on duty and for the inmates.

754. Any serious incident affecting the order, discipline or security of the centres, any act of violence between inmates and members of the staff, and any crimes or other offences are brought to the attention of the Public Prosecutor's Office, a juvenile court judge and the members of the supervision and coordination committee. All abscondments are reported to the forces of law and order, the Public Prosecutor's Office and a juvenile court judge.

755. Infringements by inmates of laws, regulations or instructions, and acts of disobedience, indiscipline or insubordination may, depending on the circumstances and seriousness of the case, lead to the following extraordinary disciplinary measures:

(a) Withdrawal of all or some of the privileges granted;

(b) Exclusion from all or some of the common activities;

(c) Imposition of a stricter supervision regime;

(d) Transfer to another centre by the magistrate who ordered the placement;

(e) Temporary assignment to an individual room;

(f) Temporary solitary confinement.

756. Temporary solitary confinement means that the inmate is kept day and night in a single-occupancy cell. It may involve the suspension of training, work, recreational and joint activities, and the use of personal effects. This measure can be applied only for serious reasons. Within a time limit of 24 hours following the imposition of the measure, a doctor must examine the minor in order to establish whether he is capable of enduring it. A doctor visits inmates subjected to temporary solitary confinement at least twice a week. The duration of this measure may not exceed 20 consecutive days; it is suspended if the doctor reports that its continuation may impair the minor's physical or mental health. Any such measure whose duration exceeds 10 consecutive days must be reviewed by the director in consultation with the doctor, the magistrate who made the placement order, and the chairman of the supervision and coordination committee.

757. Every CSEE has a set of isolation cells. In the boys' centre at Dreiborn these cells have only the most rudimentary furnishings. They have no outside yard and no day room. Although, in the words of the Grand-Ducal Regulation of 9 September 1992, temporary solitary confinement is only an "extraordinary disciplinary measure" which is of limited duration and can in no case constitute a systematic method of placement, 41 CSEE inmates (5.5 per cent) were transferred to solitary-confinement cells in 1994 for a total 379 days (note dated 16 August 1995 of the interministerial working group set up to study the problem of the placement of minors in secure accommodation, discuss possible solutions and propose an appropriate programme).

(c) CSEE statistics

758. Numbers of minors placed in the CSEE from 1990 to 1995:

DREIBORN (boys)	SCHRASSIG (girls)
Total placements: 264 Annual average: 44	Total placements: 184 Annual average: 30.67

759. Duration of CSEE placements, 1990-1995:

DREIBORN						SCHRASSIG					
No.	Months	%	No.	Months	%	No.	Months	%	No.	Months	%
59	0<1	22.34				52	0<1	28.26			
26	1<2	9.84				16	1<2	8.70			
18	2<3	6.81	103	<3	39.01	18	2<3	9.78	86	<3	46.74
13	3<4	4.92				12	3<4	6.52			
23	4<5	8.71				13	4<5	7.07			
7	5<6	2.65	146	<6	55.33	11	5<6	5.98	122	<6	66.30
7	6<7	2.65				6	6<7	3.26			
19	7<8	7.19				6	7<8	3.26			
5	8<9	1.89	177	<9	67.04	4	8<9	2.17	138	<9	75.00
14	9<10	5.30				4	9<10	2.17			
3	10<11	1.31				8	10<11	4.35			
5	11<12	1.89	199	<12	75.37	8	11<12	4.35	158	<12	85.87
45	12<24	17.04	244	<24	92.42	22	12,24	11.96	180	<24	97.83
12	24<36	4.54	256	<36	96.96	4	24<36	2.17	184	<36	100

760. Days at large following abscondment of minors placed in the CSEE:

DREIBORN			SCHRASSIG		
	1994	1995		1994	1995
TOTAL	1,398	1,057	TOTAL	591	336
Average/months	116.5	88.1	Average/months	49.25	28

761. Days of solitary confinement of minors placed in the CSEE:

DREIBORN			SCHRASSIG		
	1994	1995		1994	1995
TOTAL	379	530	TOTAL	93	86
Average/months	31.6	44.2	Average/months	7.8	7.2

2. Confinement in a correctional institution and orders of temporary custody in a prison

762. Articles 24 and 26 of the Protection of Young People Act state that in the event of absolute necessity a minor may be kept temporarily in a prison for a period not exceeding one month and that he must be kept separate from adult prisoners during this period. The same applies when a temporary custody measure ordered by a juvenile court during proceedings which may lead to the application of article 1 cannot be enforced. In addition, article 6 of the Act states that if placement in an ordinary custody, education or protection establishment is inappropriate owing to the minor's bad conduct or dangerous behaviour, the court shall order him to be interned in a State correctional institution.

763. At present the minors' prison and correctional section are located in the Luxembourg Penitentiary. In the opinion of the interministerial working group established by:

> "the Council of Government in order to study the problem of the placement of minors in secure accommodation, the Penitentiary is ill-equipped to perform this task. It has neither the infrastructure for the separation of minors from adult prisoners as stipulated in article 26 of the Protection of Young People Act nor personnel with suitable socio-pedagogic qualifications.
>
> The Penitentiary is thus forced to improvise a closed regime for minors; only the imposition of a strict cell system prevents any contact between minors and adult prisoners.
>
> In practice there are:
>
> - Temporary custody measures, which are limited, unless they are lifted or leave is granted, to one month under a strict solitary confinement regime without access to a television set, with contacts restricted to the prison staff and any visitors, including a psychologist of the Central Social Assistance Service (the social service of the Public Prosecutor's Office);
>
> - Court orders for placement in the correctional unit with a regime of confinement to cell for 23 hours a day (one hour's exercise in a 9-m^2 yard), in principle without any practical opportunity of participating in training, discussion or work activities, with the recently introduced exception of two hours' sports per week under the supervision of a staff member".

764. On the basis of data supplied by the Administration of the Luxembourg Penitentiary and the Central Social Assistance Service it can be stated that:

(a) Every year one or two minors are placed in the correctional unit; the others are placed under temporary custody orders, i.e. under the strict solitary-confinement regime;

(b) There has been a very clear increase in the placement of minors in the Penitentiary over the past five years in comparison with the preceding five:

nine). Unfortunately, these figures do not indicate the number of minors concerned or the type of measure imposed on them. Over the past five years 85 per cent were placed in the Penitentiary for periods of between one and three months. The longest placement was four years. With minors in the "over-15" and "under-15" age groups taken together, it is clear that minors are being placed in the Penitentiary at an increasingly young age. The youngest were 13 years old. In 1995 34.8 per cent of the minors placed in the Penitentiary were aged under 16.

765. On 27 March 1992 the Government decided to commission an interministerial working group to study all the alternative solutions with a view to establishing a special secure unit for minors. This group completed its work on 18 November 1992 and called for the speedy creation of a secure unit in the State Socio-Educational Centres. The Government stated that it was "in principle in agreement with the establishment at Dreiborn of a special unit for young prisoners". The Ministry of Public Works was requested to prepare a construction plan.

766. In order to have an "educational value", placement in prison or in a correctional unit should meet three requirements (J. Detienne in "Le placement des mineurs dans une maison d'arrêt", Journal des Tribunaux, No. 5787, 27 January 1996): it must be ordered in the best interests of the child (Convention, art. 3, para. 1); the placement must be effected in a special prison unit under suitable arrangements (art. 37 (a) and (c)); and it must be designed to facilitate reintegration in society (art. 40, para. 1).

767. It is hard to maintain that the best interests of the child are served when the child is imprisoned under the present placement arrangements and as long as such placement is ordered because there is, according to the juvenile court judges, no other option. Under the pretext that such placements are for very short periods and, in particular, that they have insufficient time or personnel, the social services take very little interest in these minors. They are separated from their families and live in complete deprivation. If this measure is to have any educational value there must be proper supervision of the young people, especially when there are several of them in the establishment. Notwithstanding the dedication of the supervisory staff, it must be recognized that they have not been trained to look after these children, who are aged between 14 and 18 years.

768. The second requirement is satisfied to the extent of preventing "physical" contacts with adults, but is this sufficient? Prison is a world full of echoes: cries of anger, violence, despair, it is a world in which the minors take part in this collective revolt, when it breaks out, side by side with the adults. Just like the adults, they listen to "confidences" whispered at windows and they too receive confused messages. In the absence of a special unit for young people, totally separate from collective prison life, imprisonment places minors in an adult environment. Far from keeping them separate, it brings them closer to their elders, puts them in direct contact with a reality which their eyes, however wide-open, could only have suspected. The fact that they can get some fresh air only in the exercise yard denies them the minimum of physical exercise essential at their age. In addition to specialized teachers, placement in prison or a correctional section requires a specially equipped unit, isolated from the hurly-burly of collective prison life. Otherwise, these measures will always clash with the spirit of the Protection of

769. The third requirement, it will have been understood, is not satisfied any better than the other two. The interministerial working group established by the Council of Government on 27 March 1992, which submitted its report on 16 August 1995, found that the detention of minors in the Penitentiary under present conditions has no effect of social rehabilitation. On the contrary, it only accentuates the drift towards social and physical destructuring which underlies the difficulties of the young person in question and which prompted the placement order. In the working group's opinion, these young people risk losing all awareness of time and may adapt to a peculiar rhythm which confuses day and night. Cut off from ordinary social contacts, they abandon the usual social rules. Subjected to a regime limited to the satisfaction of their basic needs, they lose totally their capacity to organise their daily lives independently (food, hygiene, money management). At a crucial point in their development they learn idleness instead of acquainting themselves with the "laws" of the world of work. On the basis of these conclusions, the working group discussed the arguments for and against the creation of a "secure unit" for minors and then determined the objectives of such a unit and proposed several options to the Government.

D. Physical and psychological rehabilitation and social reintegration (art. 39)

1. Legislation designed to facilitate rehabilitation and social reintegration

770. First of all, article 38 of the Act of 10 August 1992 establishes the principle that it is prohibited to publish or disseminate the proceedings of the juvenile courts. The same applies to disclosure of the identity or personality of minors brought before the courts. The statement of the reasons for this legislation makes it clear that this provision is based solely on a concern to protect minors and preserve as far as possible their family links and not to impede their social integration. However, paragraph 2 of this article states that the victims of offences committed by minors may receive information contained in the file which they need in order to exercise their right to compensation, but that such information may be used only for that purpose. Violations of this provision are punishable by a term of imprisonment of between eight days and six months and a fine of between 2,501 and 100,000 francs, or by one of these penalties.

771. Pursuant to article 12 of the Act, a juvenile court judge may grant long-term leave to placed minors. Such leave is designed to enable these young people to prepare themselves for working life and to facilitate their social integration before the final lifting of the placement order. In order to maintain children's contacts with their families, weekend or other short-term leave may be granted by the directors of the establishments or by the persons to whom the minors are entrusted, subject to prior notification of a juvenile court judge.

772. For the same purpose of social integration or reintegration, a juvenile court judge may at any time, for example during a long period of leave, require a minor to join the education assistance system (article 1 of the Act of 10 August 1992). Since the entry into force of this provision, minors may be

providing support, counselling or assistance to children and their families (arts. 13 and 14). A detailed study of the total impact of the "education assistance measures" ordered by the juvenile courts is unfortunately not available. Nevertheless, in 1993 the SCAS probation officers responsible for these assistance measures produced an evaluation of their work. In this document they indicate their thinking about the preconditions for the success of the measures, their influence on the rehabilitation and social integration of the young persons, and the maintenance of family cohesion. Their observations deserve to be followed up and built upon, especially since for many young people these measures may offer an alternative to expensive placement in an institution.

773. In the same way, the imposition of educational or voluntary service consistent with age and resources (art. 1 of the Act of 10 August 1992) can have a beneficial effect on the socialization of young people. This measure is in fact designed to make them aware that by committing an offence they have caused damage and that the damage must be made good.

774. Lastly, it must also be stressed that the provisions of article 15 of the Act can have a positive influence on the integration in working life of children who have infringed the criminal law. This article states in fact that decisions of a juvenile court or judge shall not be recorded in the child's criminal record. The final decisions of the juvenile court with respect to minors prosecuted for crimes do not therefore appear in this document, which they must usually present when applying for a job. However, such decisions are recorded in a special register and may be brought to the attention of the judicial and administrative authorities when such information is essential for the application of a law or regulation, as well as to injured parties, subject to the condition that they must comply with the provisions of article 38 cited above. The same applies to sentences imposed on minors by a criminal court.

2. Administrative and educational measures to facilitate rehabilitation and social reintegration

775. According to the Protection of Young People Act, any social, socio-educational and socio-familial institution may be called upon to take an active part in the rehabilitation and social reintegration of children in conflict with the law or requiring urgent and specific protection. In fact, the children's homes cater mostly for minors placed by juvenile court judges (see section VI.E); similarly, the boarding schools, day centres and social assistance services are frequently called upon by the judicial bodies, either to avoid a placement in a more secure institution or to ensure psycho-social follow-up when the minor is returned to his family.

776. The various services have the option of collaborating with the judicial authorities, i.e. in principle they are free either not to accept children, young people or their families, or to break off their involvement. The reasons given for such action include the child's extremely unruly behaviour, his lack of motivation, the difficulty of housing him in a specific unit, temporary lack of space, etc. At present, only the CSEE are obliged by law to accept the minors placed with them by the judicial authorities.

(a) Description of the CSEE

777. These centres were reorganized by the Act of 12 July 1991. The old reformatories operating within the framework of the prison administration were transferred to the Ministry of the Family; at the same time the Legislature created the institutional framework essential to the implementation of a socio-educational treatment programme. Thus the 1991 Act marked an important stage in the long process of the decriminalization of the psycho-social problems of minors.

778. For a long time children coming into conflict with the law had been detained together with adults. The organization within the prisons of special units for minors, the recruitment of teachers by the prison administration, the establishment of training workshops, the establishment of reformatories outside the prisons, and the generally more educational slant of the detention measures constituted considerable progress.

779. The reform project as conceived by the Government and approved by the Legislature provides the following guidelines:

(a) The CSEE are designed primarily to help young people experiencing serious behavioural problems or requiring protection. They accept unconditionally minors placed by the competent judicial authorities;

(b) After a long period of development the CSEE now bear responsibility for ensuring comprehensive socio-educational care: provision of board and lodging, leadership of activities, assistance with personal problems, psychological and social counselling, academic and vocational training, introduction to and integration in working life, follow-up and monitoring of former inmates on the outside, social and educational counselling of parents, etc.;

(c) In comparison with other children's homes, the CSEE can offer more secure arrangements and a more rigid operational framework. With respect to some of the inmates the task is one of protection and custody, but the measures taken must have an educational, therapeutic and socio-pedagogic focus;

(d) In view of the involvement of various authorities in the decision-making procedures, the Act of 12 July 1991 instituted a supervision and coordination committee composed of representatives of the Ministry of the Family, the Ministry of National Education and the Public Prosecutor's Office. This committee has functions of supervision, coordination, collaboration and promotion with respect to the CSEE.

780. The CSEE have two centres, one for girls (Schrassig), the other for boys (Dreiborn), and several common services: the socio-educational teaching institute (school and training workshops), the psycho-social service, the socio-pedagogic training unit (for staff), the socio-vocational initiation project, and the associated external housing service. A working group is considering arrangements for establishing a secure unit.

(b) CSEE inmates

781. In 1995 the CSEE cared for an average of 52 inmates (26 at Dreiborn and 26 at Schrassig). The daily averages of inmates actually present were 20 boys and 19 girls. There has been little change in these averages in recent years, but the annual number of admissions has increased. At Dreiborn there were 52 new admissions in 1995, and at Schrassig 42. These centres have to show very great flexibility. They are required to accept unforeseen placements at any time and without preparation. With regard to the numbers of inmates they act as a "buffer". Although the Dreiborn Centre had an actual daily roll of 20 inmates on average, 30 young people were registered as present on 31 December 1995. The ages of admission range from eight to 18 years, and a child can be admitted at any time, 24 hours a day.

782. The high number of admissions and of stays of a short average duration highlight the fact that the CSEE increasingly perform a function of accommodation in crises or emergencies and an advisory function with regard to subsequent measures. The close cooperation between the CSEE and the "pool" of socio-educational and socio-familial institutions makes it possible in many cases to consider transfers to more open arrangements or to plan for the child's return to his family. Decisions on such matters are taken by the competent judicial authorities, which readily heed the reports of the psycho-social service and take into account the proposals of the directors and their education teams.

783. It is true that the CSEE often admit young people exhibiting particularly disturbed behaviour, and there are many different reasons why the judges make such placements: the need to protect the young person from his environment (maltreatment, sexual abuse, serious neglect of education, parents' alcoholism, etc.), his own alcoholism or drug addiction, truancy, prostitution, violent behaviour, xenophobia, theft, burglary and other forms of delinquency, assault and battery, infanticide, attempted murder, murder... In view of the diversity of the possible situations and the shortage of personnel, the CSEE directors have an extremely difficult and delicate task, especially as at the time of admission it is impossible in most cases to predict the length of the new arrival's stay.

784. Usually the mandatory nature of the order for CSEE placement ceases, at the latest, when the inmate reaches the age of majority. A young adult is entitled to request continuation of the order, either to complete his vocational training or to prepare better for independent life outside the institution. While it is true that in the children's homes many inmates choose this option, this is not (yet) the case in the CSEE.

(c) Personnel

785. The socio-educational teams of the CSEE accommodation units are too under-staffed for the institutions to be able to perform properly their many and very difficult functions. The private children's homes operating under agreements with the Ministry are better staffed. For the accommodation units alone five additional posts will have to be established if the standards applied in the agreement sector are to be met (five staff for every eight inmates).

786. For many decades Christian nuns were responsible for the educational management of the Schrassig Centre. They were educationalists, teachers and instructors and developed a rich socio-pedagogic tradition. Supervision at Dreiborn was provided by career warders. Despite efforts at innovation and indisputable good will, the educational arrangements remained generally subordinate to the supervision and protection requirements.

787. A socio-pedagogic training unit for staff was introduced in 1991. Despite their efforts, the managers of the CSEE have great difficulty in recruiting trained instructors for new posts or posts falling vacant; in addition, some of the staff taken over from the old reformatories had been recruited for non-educational posts; and the complexity and diversity of the work constitute an extraordinary challenge and contain a high risk of "burn-out". The socio-pedagogic training unit provides specific additional training for all members of the staff. Its task is to improve the socio-educational qualifications of all staff members by building on their multiple human and professional potentials through training and further training. The courses provided in 1995 dealt mainly with the following topics: drug addiction, alcoholism, education in an institution, psychopathology, maltreatment and sexual abuse, organization of the judicial system, and buildings security. The trainees were recruited mainly from among the "professionals" of the public and private socio-educational services. The unit calls in outside experts, who hold collective and individual supervision sessions in the centres.

788. The establishment in 1991 of a psycho-social service has been assessed by the CSEE managers as an indispensable asset. In 1996 this service had two psychologist posts, one social worker and one teacher. It offers counselling, guidance and training for senior and other staff and inmates:

Production of medical-social and psycho-pedagogic profiles;

Design of socio-educational projects;

Individual interviews with inmates;

Organization of psycho-therapeutic sessions in and outside the CSEE;

Participation in administration meetings and collective and individual supervision sessions;

Preparation of evaluation and guidance reports for the judicial authorities;

Contacts with the inmates' families, counselling of parents, and participation in family reintegration work;

Participation in CSEE cooperation with other social, socio-educational and socio-familial institutions both in Luxembourg and abroad;

Participation in institutional analysis.

(d) Quality of the provision made for education

789. The relevant legislation includes the Act of 12 July 1991 on organization of the CSEE, the Grand-Ducal Regulation of 9 September 1992 on security and discipline in the CSEE, and the Ministerial Regulation of 20 May 1993 on the internal organization of the CSEE.

790. The laws and regulations emphasize that the priority mission of the CSEE lies in their socio-educational and psycho-therapeutic work. Thus the personnel has an obligation to "take all measures to promote the personal development of the inmates, the development of their individual faculties and their social (re)integration" (Ministerial Regulation, art. 1). For reasons connected both with security in the centres and with the protection of the inmates' rights "members of the staff are prohibited inter alia, on pain of disciplinary action, from:

1. Committing acts of violence against the inmates or inflicting corporal punishment on them;

2. Applying extraordinary disciplinary measures without a formal order from the director or his deputy;

3. Communicating to any person whatsoever information about the inmates and their families without being authorized to do so by the chairman of the supervision and coordination committee or by the director or his deputy;

4. Using insulting names or coarse language when addressing inmates;

5. Using inmates to perform the staff's own work without the written authorization of the director or his deputy;

6. Accepting from inmates or from their parents or persons acting in their manifest interest any gifts or benefits in any form whatsoever;

7. Lending or selling to or borrowing or buying from inmates or their parents any item whatsoever, unless the transaction is authorized by the director or his deputy;

8. Facilitating or tolerating any irregular means of communication among the inmates themselves or between inmates and the outside world;

9. Filming the interior of the centres or the inmates, making sketches, or making sound or visual recordings without the prior authorization of the chairman of the supervision and coordination committee;

10. Leaving their post, except as required by their duties, without the consent of the director, his deputy or a senior officer; in addition, persons performing custody and prevention duties may not leave their post before their replacement arrives;

11. Bringing unauthorized visitors into the centres or receiving them there;

12. Leaving the keys of the centre unattended or entrusting them to unauthorized persons;

13. Having dealings for any reason and in any way with enterprises or suppliers concerning the servicing of the centres, or having an interest in the business of such entrepreneurs or suppliers;

14. Making personal use of items belonging to the centres without the written authorization of the director or his deputy;

15. Arriving at a centre under the influence of drugs or alcohol and presenting themselves for work in such condition;

16. Bringing into the centres alcoholic beverages, drugs or other harmful products, or consuming alcoholic beverages during their duty hours;

17. Carrying or using weapons or ammunition during their duty hours or in the presence of inmates" (Ministerial Regulation, art. 4).

791. Although the CSEE can in no way influence placement orders, they do indeed have a responsibility for guaranteeing proper admission procedures. For example, according to article 34 of the Ministerial Regulation, "the director or his deputy shall ensure that the modalities of the admission procedures are respected for all new inmates:

Admission of the inmate a unit or section and assignment to an individual room or a dormitory; introduction of the inmate to the members of the staff and the other occupants of his unit or section;

Appointment of a personal tutor from among the members of the socio-educational staff;

Familiarization of the inmate with the internal regulations and the daily schedule;

Mandatory presentation of the inmate for detailed medical examinations within the three days following his admission;

Maintenance of the registers and documents specified in article 16 of the Grand-Ducal Regulation of 9 September 1992 on security and discipline in the CSEE".

792. Article 35 states that "the psycho-social service is responsible for preparing a medico-social and psycho-pedagogic profile of every inmate in the first few weeks following his admission and for drawing up a socio-educational and psycho-therapeutic programme. This programme is adopted at a meeting chaired by the director or his deputy, to which are invited the inmate, his parents, his personal tutor, representatives of the placement body, and the juvenile court judge. The socio-educational and psycho-therapeutic programme must be reviewed every six months".

793. Daily life in the CSEE is based on respect for the principles of personal development, individual responsibility, and social integration and participation:

Acceptance of teaching based on privileges and punishments;

Obligation of all inmates either to work, inside or outside the institution, or to take courses of academic or vocational training;

A welcoming atmosphere (modes of address, availability of staff, furnishing and decoration of rooms);

Organization of creative leisure activities;

Compulsory participation of inmates in various maintenance tasks (upkeep of clothing, preparation of communal meals, maintenance of rooms in the communal areas and their surroundings);

Regular organization of meetings of inmates;

Individual and group outings (participation in social life and attendance at cultural and sporting events);

Instruction of inmates in the independent and responsible management of their personal life (family relations, domestic economy, finance, contacts with administrative services);

Human-relations and psycho-affective counselling;

Socio-vocational integration.

794. The diversification of the accommodation units is a priority concern of the CSEE managers. In order to avoid placing minors in the Luxembourg Penitentiary and with a view to establishing secure facilities which can provide socio-pedagogic and psycho-therapeutic training, it seems essential to create in the near future a secure unit within the CSEE. But in addition to sections providing closer supervision, it is necessary to organize and equip more open and independent units. Such experiments have been carried out both at Schrassig and at Dreiborn, with very positive results. It would be useful to organize such semi-independent co-educational units outside the CSEE. Thanks to public and private subsidies the CSEE have been able to develop a supervised external lodging project. The CSEE have several studios and apartments in town which are used to offer adult inmates about to leave the institution an opportunity for preparing for adult and independent life on the outside.

795. Article 24 of the Ministerial Regulation establishes a "quality audit group" whose members are appointed by the Ministry of the Family. The group's task is a consultative one and consists of making regular visits to the centres, examining the quality of the infrastructure and equipment and the operational principles and their application, and drafting concrete proposals for improvements.

(e) Socio-Educational Training Institute

796. The Socio-Educational Training Institute was established by the Grand-Ducal Regulation of 3 September 1995. It is a joint CSEE service and has schools and training workshops. It provides co-educational socio-vocational education and training. The Institute the following operational problems:

Admission of pupils at any time in the school year;

Considerable fluctuation in the number of pupils and length of their stay;

Admission of pupils of widely differing ages and mental ability, coming from all kinds of school and having very varied academic records and many different psychological and social problems;

Participation in the custody and protection work of the CSEE.

797. The Institute has the following ambitious goals:

To boost its pupils' motivation by stressing their achievements rather than their failings ("success" approach to teaching);

To prepare individualized education programmes for every pupil, taking into account his general academic level, needs and interests, and his capacities and affinities, and to supervise his socio-educational and psycho-therapeutic programme;

To be closely involved in the educational and therapeutic work of the centres; to promote the social and vocational integration of the pupils; to ensure that they acquire social skills ("key qualification") based on correctness, application, punctuality, commitment, reliability, responsibility, cooperation and dialogue.

798. For all these reasons the Institute's teaching and other activities are based on a modular training system. Considerable time is allocated to artistic and manual activities, sports and cultural education, and physical and musical expression. "Second-attempt" literacy courses, introduction to the applied natural sciences, environmental studies, computer technology, social communication and the raising of children are given just as much attention in the Institute's curricula as the more traditional school subjects.

799. The Institute organizes its activities as a continuous day from Monday to Friday and is currently providing academic and vocational training for about 40 CSEE inmates taking different types of class. Pupils of the age of compulsory education and/or who are capable of continuing their education beyond the compulsory age are enrolled:

(a) In a preparatory class for technical secondary education;

(b) In a secondary and technical education class, lower level, offering the standard school curriculum;

(c) In a remedial class, where the programme focuses mainly on the pupils' psycho-social and affective deficits; it includes, among other subjects,

"second-attempt" literacy, social communication, handicrafts training, and physical, manual and artistic expression.

800. Students over the age of compulsory schooling are enrolled in the socio-vocational training class, where the priority goal is to equip them with the social skills required for life in society and at work and with a broad range of basic technical knowledge and manual skills in the carpentry, painting, bricklaying, gardening, agriculture, cookery, dressmaking, plumbing and heating, and cycle-repair workshops. The curriculum of this class is based mainly on skilled manual work and includes, amongst other subjects, information technology, applied mathematics, technical drawing, and artistic and physical expression.

801. At present the Institute has one of the minors housed in the Luxembourg Penitentiary on its roll. In close cooperation with one of the country's traditional secondary schools, it organizes the instruction of this young person, who takes the standard curriculum of a traditional secondary class. The results are evaluated by the secondary-school teachers, who produce the end-of-year reports. This is a pilot experiment to examine ways in which all the minors housed in the Penitentiary might take the Institute's courses.

802. The Institute's efforts to facilitate the social and vocational (re)integration of the pupils includes careers guidance, which is based on a system of rotation among the workshops, organization of day-release courses in enterprises, and familiarization with the procedures for finding work (visits to the State Employment Agency, location of job vacancies in newspapers, simulated recruitment interviews, and assistance and follow-up when the young people are making the transition from institutional life to life in the outside world). The Institute's instruction, training and education work is carried out by staff appointed to the CSEE or seconded from other schools by the Ministry of National Education and Vocational Training, and by two junior lecturers seconded or appointed either by the Ministry or by the supervision and coordination committee on the basis of the certified opinion of the Institute's inspectorate.

XI. SPECIAL PROTECTION MEASURES

A. Refugee children (art. 22)

803. Luxembourg is a party both to the Convention relating to the Status of Refugees of 28 July 1951, approved by the Act of 20 May 1953 (Mémorial 1953, p. 703) and to the New York Protocol relating to the Status of Refugees of 31 January 1967, approved by the Grand-Ducal Regulation of 6 January 1971 (Mémorial 1971, p. 66). A child may thus have his status of refugee recognized either in accordance with the Geneva Convention or in his own right, usually pursuant to the principle of family unity. When a child requests asylum, the Minister of Justice, acting on the opinion of the advisory committee on refugees, follows scrupulously the provisions of the Handbook on Procedures and Criteria for Determining Refugee Status published by the Office of the United Nations High Commissioner for Refugees, in particular paragraph 214 concerning the degree of mental development and maturity of the child applicants.

804. The provision of assistance to refugees in general and more particularly to refugee children is the responsibility of the Government's Commissariat for

Foreigners, which collaborates closely with the public and private social services.

805. The reception centres for the temporary accommodation of refugees and asylum-seekers are managed either directly by the Commissariat or, under a cooperation agreement, by the Caritas Federation or the Luxembourg Red Cross. In principle, refugee children are accommodated in the centres with their families. Unaccompanied minor children require the intervention, through the Commissariat, of the authorities responsible for the protection of young people and, if necessary, of the guardianship and juvenile courts. The children are placed, in order of preference, either with members of their family residing in Luxembourg or in a children's reception establishment. Delegation of parental authority or appointment of a guardian may be ordered if necessary, and in particular at the request of the Public Prosecutor's Office.

806. There is a network of specific social assistance services for refugee children designed to facilitate their entry into the country's trilingual school system from the primary level. The reception classes handle refugee children in the same way as the children of migrants, in order to equip them with the necessary linguistic knowledge for them to be able to join the appropriate school grade corresponding to their age and ability. In addition, volunteers from private associations have undertaken to provide free academic and cultural training outside school hours. This training often takes place in the reception centres for asylum-seekers in collaboration with the Commissariat for Foreigners.

807. Special courses have been organized during the summer holidays, in particular for women of Serbo-Croat mother tongue, in order to give them a grounding in French and thus help them inter alia to take an interest in their children's education. Attendance at language courses, mainly at the Luxembourg Languages Centre, is broadly supported by the Commissariat for Foreigners.

808. The social assistance provided by the State to asylum-seekers includes material assistance. The base scales were set by the Government in Council and take due account of the number of children in the household.

809. Luxembourg intends to continue to demonstrate its readiness to participate in international cooperation to solve refugee problems.

B. Drug abuse (art. 33)

1. The legal position

810. Drugs are consumed in all societies, but the classification into legal and illegal drugs depends on each society's cultural and historical context. In Western Europe, for example, the drinking of coffee was prohibited for a long time, but today coffee is widely drunk. Cannabis and its derivatives seem to be following a similar trend. It is estimated that one per cent of the total population regularly uses cannabis. Experience shows that the consumption of an item does not decline when it is declared illegal (for example, the prohibition of alcohol in the United States between 1919 and 1930 had harmful effects on society).

811. Nevertheless, Luxembourg has enacted legislation on this subject on the basis of the international conventions. These conventions allow States parties a degree of freedom with regard to criminal measures designed primarily to combat drug trafficking rather than to punish drug users. The basic text is the Act of 19 February 1973 on the sale of medicinal substances and the fight against drug addiction, which was amended by:

(a) The Act of 23 February amending the Act of 19 February 1973 on the sale of medicinal substances and the fight against drug addiction;

(b) The Act of 16 June 1989 amending the Criminal Investigation Code and a number of other legal provisions;

(c) The Act of 7 July 1989 amending the amended Act of 19 February 1973;

(d) The Act of 17 March 1992, which

(i) Approves the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;

(ii) Amends and supplements the Act of 19 February 1973;

(iii) Amends and supplements certain provisions of the Criminal Investigation Code.

This legislation provides penalties for violations and also allows the authorities the option of not taking action against users (waiver of prosecution) and offers the possibility of treatment for drug addiction. Persons guilty of violations who disclose to the authorities the identity of unknown perpetrators are not prosecuted or have their terms of imprisonment or fines reduced.

2. Statistics

812. In 1993-1994 an epidemiological study of the population of drug addicts in the Grand Duchy of Luxembourg was made by the European Monitoring Centre for Drugs and Drug Addiction in collaboration with the Socio-Therapeutic Action Service of the Ministry of Health. This study estimated the total number of drug addicts in the Grand Duchy. However, it based the estimate only on the admission figures and files of the various institutions concerned. The estimate does not therefore reflect the total number of drug addicts living in our country. Internationally recognized studies have shown that the "black figure" for drug addicts is equal to about 20 to 25 per cent of the known population. In Luxembourg the number of addicts dependent on illicit "hard" drugs would thus total between 2,300 and 2,400 (0.6 per cent of the country's total population and 1.5 per cent of the total population aged 15 to 40). The official figures do not indicate the number of addicts aged under 15 and include only six young people aged between 15 and 19 (out of a total of 324). For example, young people who take Ecstasy are not recorded. Ecstasy is a drug used mainly by students, who are not recorded by the country's various institutions. The consumption of this drug is constantly increasing throughout Europe.

813. An interesting study was made by a research team of the Institute for Educational and Social Studies; it was published in 1995 under the title "School

children and drugs. A representative study of children in the fifth grade of secondary education in Luxembourg". The team's questionnaire was answered by 1,341 students (1,400 students in 87 classes received the questionnaire). Their average age was 17.6 years. The study is representative with respect to sex, nationality, type of education, school status (public or private), and geographical distribution. In the case of illegal drugs, 132 of the respondents had had contact with cannabis products and 129 with "uppers". About 1 per cent had had contact with hard drugs such as cocaine and heroin, 0.2 per cent with crack, 2.1 per cent with LSD, and 1.2 per cent with Ecstasy; 5.5 per cent had had contact with several of these drugs. It should be noted that the proportion of children using illegal drugs increases with age (especially among students aged 20 and over).

814. Drugs are usually taken in the company of other persons (only 16.1 per cent of respondents were alone at the time of their first use). In 60.5 per cent of cases the drug was supplied by a friend or schoolfellow, while 8.9 per cent of respondents received the drug from a stranger. In more than half the cases the deal was done in a private place and in 20.8 per cent of cases in cafés or discotheques; 12.3 per cent of the respondents obtained their first illegal drugs abroad, 5.3 per cent at school, and 7 per cent in the street.

3. Prevention

815. In 1991 the Minister of Justice and National Education established an interministerial commission on drugs to devise a strategy for the prevention of drug addiction in Luxembourg. In its final report the working group stressed the importance of primary prevention as a means of subjective improvement of the quality of life with a view to encouraging a healthy lifestyle and reducing the demand for drugs. This means of prevention applies primarily to children.

(a) Prevention in the family

816. Many parents need information, especially about illegal drugs but also about the causes of drug use. Unfortunately, some parents do not realise that their behaviour, habits, etc., serve as a model for their children (a medicine for every minor complaint, regular consumption of alcohol, etc.). The Ministry of Health plays an important role (see section VII) and there are several associations working in this field.

817. In its final report the working group notes that there is a lack of prevention focused specifically on the family. In a country in which the family, regardless of its form, plays an important role in society, work with parents must be regarded as a priority. This work must also be extended to foreign families with their specific needs and problems.

(b) Prevention in the schools

818. Prevention in the schools is just as important as in the family, because all children aged between six and 15 years spend a large part of their lives at school. It is also known that most drug addicts have their first exposure to cigarettes, alcohol, medicines and hashish between the ages of 10 and 14.

819. In the primary schools the harmful effects of alcohol, medicines and tobacco are dealt with in the "Awakening to science" course. This work is continued in the biology courses in secondary schools.

820. For some years now the gendarmerie and the police have been systematically informing pupils in the first year of secondary education about the problems of drug use, the drugs market, etc. The National Youth Service has prepared teaching materials for distribution in secondary and secondary technical schools, and the Ministry of Health covers this problem in its information reviews (see section VII). Since 1990 the senior staff of the school psychology and guidance centre of the Ministry of National Education and Vocational Training and the National Youth Service of the Ministry for Youth, in collaboration with the Jugend - an Drogenhëllef association and the "Sûreté Publique" (Department of Security) have been trying to put across the message that training in conflict management, tolerance and planning of leisure time are very important factors in the prevention of drug abuse. This message is communicated by means of exhibitions, conferences, stage shows, video films, and discussion forums with pupils.

821. Nevertheless, it must not be forgotten that a number of young people live in boarding schools, day centres, homes and socio-educational centres. The directors of these institutions must accept that some of the young people whom they take in use drugs and that secondary prevention is therefore very important (treatment to try to prevent the at-risk population from becoming dependent).

822. The "Prevention" working group considers that many young people try to get themselves a reputation for being dismissive of authority figures and teachers. Young people need open and attentive adults to guide them along the road to adulthood. The paper "Tomorrow's school" published by the Ministry of Education shows how the schools must develop: "Schools are places of education but they must become at the same time places for the upbringing of children... The development of society's physical and mental well-being also requires greater attention in the schools. Schools cannot avoid reacting to phenomena which reflect a profound malaise and jeopardize the physical and mental well-being of young people: alcoholism, drugs, violence".

(c) Prevention during leisure time

823. Youth centres have an important role to play in this field. They offer activities for young people after school and have been established mainly in the bigger towns.

824. The police and the gendarmerie collaborate in the organization of dances and parties at which young people are given information about illegal drugs. The secondary schools take part in the "Live well without drugs" awareness-raising campaigns organized by the National Youth Service. But these activities involve young people who do not belong to the at-risk groups. Leisure activities must also include opportunities for young people to learn to improve themselves and to know their limits ("Erlebnispädagogik"). The network of social workers operating outside the institutions must be extended, and measures of social and occupational integration must be promoted for disadvantaged young people. At the local level, the communes must create places in which young people can meet freely and relax.

(d) Drug Addiction Prevention Centre

825. The Act of 25 November 1994 authorized the Government to create a public-interest institution called the Drug Addiction Prevention Centre. The purpose of this Centre is to develop, promote and propagate ideas and strategies for a healthy and positive lifestyle, in particular by preventing behaviour which may lead to the various forms of drug addiction and other forms of dependence. Its work includes:

(a) Elaboration and development of a national plan for systematic and structured prevention work and implementation of this plan in conjunction with existing national and international organizations and institutions;

(b) Coordination of the work of the various existing institutions and production of proposals for the establishment of any new institutions which may be necessary;

(c) Establishment and development of the training and further training of mediators and other workers who will have a multiplier effect among adolescents, parents, teaching and socio-educational personnel, care personnel, members of the gendarmerie and police specializing in prevention of drug abuse, and other persons involved;

(d) Carrying out information and awareness-raising activities in the form of conferences, discussions, seminars, advertising spots, films, sports events, leisure activities, etc.;

(e) Producing teaching materials and making them available to all interested persons;

(f) Providing information about the existing reception establishments and facilitating access to emergency, assistance and care institutions;

(g) Regular conduct of epidemiological studies of the problem in order to be able to carry out suitable prevention activities;

(h) Continuous evaluation of the work done, with a view to adaptation to any changes in the situation.

4. Initiatives in the fight against drug addiction

826. In 1995 the non-profit association Jugend - an Drogenhëllef concluded joint agreements with the Ministries of Health and the Family. The agreement with the Ministry of Health covers mainly the activities carried out as part of the fight against AIDS and drug addiction. These activities are carried out by workers in the street and in the consultation centres of the AIDS-prevention programme and the methadone programme. The agreement with the Ministry of the Family covers the activities of the Luxembourg City consultation centre. In 1995, 76 per cent of the consultations in this centre were with individuals and 20 per cent involved a partner or the family. Increased importance is attached to the psycho-social treatment of patients under the methadone programme; 4 per cent of the consultations take place in clinics or in prison. The new post-cure home for drug addicts, which opened its doors in early 1995,

can accommodate seven persons for the purpose of social reintegration following their residential treatment.

827. The other forms of treatment to which clients can be recommended include:

The methadone programme
The out-patient detoxification programme
Treatment at the Syrdall Schlass Manternach
Treatment abroad

828. As part of the fight against AIDS, a prevention programme including the exchange of syringes and the supply of condoms and information materials, as well as personal hygiene and care of clothing, has been prepared and implemented. It should be noted in this connection that about 55 per cent of the sterile syringes distributed have been recovered. The distribution of sterile syringes and condoms facilitate individual interviews with clients on AIDS and connected matters. In addition to the manual distribution of syringes, the "syringe dispensers" project is operating without problems and is proving very successful.

829. The methadone programme, which started in 1989, is designed mainly for drug addicts who have been dependent on opiates for a number of years and have failed with other treatments. A positive AIDS serology test and pregnancy are recognized as priority grounds for admission to the programme. During 1995 it was gradually decentralized to include outside agents, general practitioners and psychiatrists who prescribe methadone. Pharmacists, hospitals and the psycho-social services also help to distribute methadone to the programme's participants.

830. The National Social Protection Committee operates a mobile psychological, medical and social action unit in the station quarter of Luxembourg City. In their van parked beside the main station the unit's members deal with drug addicts, male and female prostitutes, homeless persons, and other young people and adults afflicted by the many problems of marginalization. Their action is limited to primary care: an opportunity to sit down and rest, a cup of coffee or tea, someone to talk to, exchange and distribution of sterile syringes, distribution of condoms, first aid, etc. At the request of their clients, the unit's staff direct them to the various housing, consultation and assistance services.

C. Sexual exploitation and sexual abuse (art. 34)

1. Current legislation

831. Luxembourg's criminal legislation on the suppression of sexual abuse of children can be summarized as follows:

(a) Indecent assault

832. Indecent assault without violence or threats. Article 372 of the Criminal Code states that any indecent assault committed without violence or threats against the person or with the aid of the person of a child of either sex aged under 16 years shall be punished by a term of ordinary imprisonment of between one and five years. The penalty is rigorous imprisonment if the child is aged

under 11 years. Article 372 states that, without prejudice to the application of article 372, any indecent assault committed without violence or threats by a person having reached the age of 18 years against the person or with the aid of the person of a minor of the same sex aged under 18 years shall be punished by a term of ordinary imprisonment of between six months and three years and by a fine of between 501 and 10,000 francs.

833. Indecent assault with violence or threats. Article 373 of the Criminal Code states that indecent assault committed with violence or threats against a person of either sex or committed against a person unable to give his or her free consent or to resist shall be punished by a term of ordinary imprisonment of between six months and five years. If the assault is committed against the person of a child aged under 14 years, the guilty party must be sentenced to rigorous imprisonment.

(b) Rape and incest

834. In 1992 Luxembourg's Legislature inserted a definition of rape in the Criminal Code (art. 375): "Any act of sexual penetration of whatever kind and by whatever means committed against the body of another person or with the aid of violence or threats or by deception or artifice or by abuse of a person unable to give free consent or resist constitutes a rape. Rape shall be punished by rigorous imprisonment". The definition of rape also covers "any act of sexual penetration of whatever kind and by whatever means committed against the person of a child who has not reached the age of 14 years". According to this text, the Legislature considers that a child aged under 14 years is incapable of giving his or her informed consent to any form of sexual relations and, therefore, that any rape of such a child should always be regarded as committed with violence. In such cases the guilty party is sentenced to hard labour for a term of between 10 and 15 years.

835. The dictionary of legal terms (published by Dalloz, 1990) defines incest as "carnal relations between close relatives or relatives by marriage whose union in marriage is prohibited by law (father-daughter, mother-son, uncle-niece, brother-sister, etc.)". If one of the partners does not consent to a sexual act of this kind, the law regards the act as aggravated rape.

836. Article 377 of the Criminal Code states that in cases of indecent assault or rape, the prison sentences shall be doubled if the guilty parties are ancestors of the victim (father, uncle, etc.), have authority over the victim (guardians, teachers, etc.) or have abused their position to commit their crime (doctors, civil servants, etc.). Article 378 states that such guilty parties may also be sentenced to suspension of the rights of vote, election and eligibility for a period of between five and 10 years. If the assault is committed by the father or mother, the guilty party shall also be stripped of the rights and benefits accorded to him or her by the Civil Code with respect to the person and property of the child (chapter of the Civil Code on "Parental authority").

837. According to the officials interviewed, most cases of sexual abuse in the Grand Duchy are committed in the family environment (perpetrators: fathers, stepfathers, adoptive fathers, grandfathers, uncles, brothers, mothers; victims: daughters, sisters, sons, mothers). Perpetrators without any family relationship with the victim are in most cases acquaintances of the family (friends,

neighbours). The lawyers consulted on this subject by the authors of the report stated that sexual abuse occurs in all social strata in Luxembourg.

838. Without presenting any clear pattern, sexual abuse is sometimes accompanied by the production of pornographic materials, such as photographs and video recordings. In Luxembourg such materials would be circulated among the producers' friends. Sometimes the producer compels his victim to watch pornographic films before committing the sexual act.

839. Sexual abuse is a traumatic experience for the victims. Therapists report that the victims subsequently have great difficulty in conducting a "normal" amorous relationship.

840. It is very hard for the victims to take the step of reporting the perpetrator, for he often threatens them with blackmail. The victims also suffer agonies of guilt, which accentuates the difficulty of reporting the perpetrator. In most cases a rape is only one secret among many other family secrets. It is then even harder for the victim to break the silence, for such action would affect not only the perpetrator but the whole family as well. The mothers often play a very ambiguous role in such families, and few of them are totally unaware of the facts. They are either accomplices or are no longer playing the proper role of a mother. According to the persons interviewed, these mothers are often addicted to alcohol, drugs or medicines. The victim plays the role of woman of the house, and has to perform all her duties. In addition, the procedures which the victim has to complete in order to report a perpetrator are very long: she must first of all lodge a complaint, which will be followed by a search for the accused person, who will be questioned. The case is then passed to an examining magistrate and eventually heard by a court. This whole process is very painful and hard for the victim to bear.

841. It is often only through contacts with her fellows that the young victim comes to understand that what happened to her is not usual in all families. Thus, many complaints come about when the victim confides in a friend, or sometimes her mother. One fairly common example is when the grandfather is the perpetrator and the mother, as a former victim of the same man, reports him when she learns that he is abusing her child.

842. Since the statistics on sexual abuse do not specify the number of cases involving minors, they give a false impression of the situation. We can however state that for the period January 1996 to April 1996 eight sex cases were tried by the criminal courts. Only one of these eight cases did not involve sexual abuse. The others did involve sexual abuse: five of minors, including three of minors aged under 17 years.

843. The juvenile court cited a few isolated examples to us:

A minor abused another minor, both having been victims of earlier abuse;

A minor abused several older women;

A couple adopted a daughter. Following rapes in the family, the daughter gave birth to a child by her adoptive father. He subsequently abused the child of his adopted daughter;

A father invited his friends to commit sexual acts with his daughter, in which he participated as an observer;

The wife in an elderly couple induced the daughter of a neighbour to watch her husband at his toilet;

A paedophile procured minors for persons seeking them;

A father recorded a sex act with his daughter and then made her watch the film to show her what she should do to improve her performance;

Some young people stated that they had been in a house at X, visited by many young people, which contained film-making equipment.

844. According to a professional of a minors' reception centre, most runaway girls find accommodation with men, often met by chance. According to such runaways, the sex aspect is always present, but it is difficult to tell the extent to which the sex represents love or is only a means of earning their keep away from home.

845. Up to now no girl has been placed in an institution by reason of prostitution, but there are dubious situations which hint at prostitution. Relatively few girls are placed following rape, although the records of many them show sexual abuse of every kind. For example, a girl revealed that her mother had sold her to various men from a very young age.

846. Sixteen men are at present serving time in the Luxembourg Penitentiary for "sexual abuse" of minors. Three of these 16 prisoners are serving sentences of preventive detention and the others sentences of rigorous imprisonment for terms of between three and 15 years, depending on the gravity of their crime. Most of these prisoners are aged over 35 years.

(c) Prostitution or corruption of young people

847. For reasons of individual freedom, prostitution as such is not prohibited. On the other hand, any person who "by signs, words, writing or by any other means publicly solicits a person of either sex with a view to inciting them to commit an indecent act shall be liable to prosecution" (Criminal Code, art. 382). In such cases the person may be sentenced to a term of imprisonment of between eight days and 16 months and a fine of between 501 and 10,000 francs. A client does not break the law by having sexual relations with a male or female prostitute aged over 16 years. The situation of such clients in the eyes of the law is identical to that of any person who has consensual sexual relations without remuneration. On the other hand, procurers may be sentenced, depending on the circumstances, to a term of ordinary imprisonment of between six months and five years.

848. It has been established that some drug addicts have been prostitutes sin e the age of 12 or 13, often with one or two regular partners.

849. The investigations carried out following anonymous reports of prostitution involving minors have been inconclusive. The few minors arrested have been almost at the age of majority.

850. Many prostitutes who use drugs suffered sexual abuse in childhood. They find it very difficult to work as prostitutes but do so to pay for their daily "fix". The judicial authorities regard it as a form of prostitution when a father abuses his daughter and systematically "lends" her to his friends. In such a case a father was sentenced to 15 years in prison and his two friends to five years each. We have had a report of a telephone call from a girl whose father was forcing her to work as a prostitute.

851. Reports by "foreigners squads" indicate that the homosexual scene is located in the park in Luxembourg City. French minors of North African origin come here to work as prostitutes. It is very probable that prostitution networks are operating in the park. The lesbian scene appears to be more discreet: lesbians can order in girls by telephone. It is important to point here to a problem which the police are constantly encountering: minors brought in for questioning sometimes appear older than they are, and if they do not have their identity papers with them only a bone X-ray can determine their age.

(d) Public decency offences

852. Article 385 bis of the Criminal Code states that anyone who sells or distributes to children aged under 16 years indecent written material, images, figures or objects likely to disturb their imagination shall be punished by a fine of between 51 and 1,000 francs. The same penalty is imposed on anyone who publicly exposes in the vicinity of a training or educational establishment attended by children aged under 16 indecent written material, images, figures or objects likely to disturb their imagination.

(e) Use of children in the production of pornographic material

853. This kind of exploitation is not covered by specific legislation. But article 7 of the Protection of Young People Act of 10 August 1992 states that a juvenile court may order custody, education or protection measures or "make an order of placement in a care institution against minors...who engage in indecent behaviour, ...who seek their resources...in occupations which expose them to prostitution...or whose physical or mental health, education or social or moral development are at risk".

854. At the time of the public debate on approval of the Convention on the Rights of the Child the Chamber of Deputies adopted the following motion:

"The Chamber of Deputies,

- Whereas article 34 of the Convention on the Rights of the Child obliges States to protect children against all forms of sexual exploitation and sexual abuse, in particular for the purposes of the production of pornographic performances and materials,

- Whereas Luxembourg's legislation does not characterize as a crime the possession of pornographic materials depicting minors,

Invites the Government

- To amend the criminal law relating to indecent behaviour, in particular in order to prohibit the possession of pornographic materials depicting children;

- To work at the European level to secure a common approach by the member States in order to fight effectively against pornography involving children".

855. Pornography involving children, in the form of magazines or video cassettes, certainly does circulate on the black market in Luxembourg. Even the open market offers products which come close to the limits. However, it has not been proven that pornographic materials intended for the general public have been produced with the aid of Luxembourg children. According to the judicial authorities, coded advertisements in the Luxembourg press refer to pornographic materials involving minors. A family man who had received through such an advertisement the address of a minor to whom he sent love letters has already been apprehended. And a case was tried in the Grand Duchy concerning parents who had authorized a foreign firm to make pornographic films of their children.

856. Computer technology offers an important niche for pornography. The producers of pornography are in this market and are just waiting for the chance to offer their products anonymously to the general public. With current technology pictures can be obtained via the Internet or Restena.

857. In the years to come it will be necessary to devise legislation regulating the development of information technology (pornographic productions via telecommunications). The persons interviewed by the authors of the report consider that at present a large number of parents are not capable of keeping up with developments in information technology and therefore cannot control any possible abuse of their children. Since there are always countries with more liberal legislation, pornographic materials involving minors will always be available. This is even more worrying since some poor countries are in the information technology market as equal partners and produce very good programmes at a very low price; they might find a good source of revenue in the production of all kinds of pornographic materials. It is already easy today for young people to have access to pornographic images.

858. According to our sources, Luxembourg's legislation does not regulate the information media, not even the telephone. Draft legislation on this subject has been prepared. Many telephone lines offer pornographic talk, also available to minors. This situation is already difficult for parents to control. It is important for countries to encourage international cooperation in this field.

2. Statistics

859. The following statistics were supplied by the Luxembourg Movement for Family Planning and Sex Education.

Year	Total rapes	Minors	Incest	Boys	Complaints
1991	177	121	69	14	44
1992	217	150	91	28	48
1993	209	166	105	27	67
1994	203	139	90	30	77
1995	179	121	70	17	57

3. Conclusion

860. The professionals are in agreement that the rate of detected sexual abuse in increasing and that we should not have any illusions on that score. Everything available abroad is also available in Luxembourg.

D. Sale, trafficking and abduction of children (art. 35)

861. Legal basis:

(a) Article 364 of the Criminal Code (chapter III: Crimes and offences likely to prevent the production of or destroy evidence of a child's civil status) reads: "Anyone who kidnaps or causes to be kidnapped a child aged at least seven years shall be punished by rigorous imprisonment, even when the child voluntarily accompanies the kidnapper";

(b) Chapter IV (Kidnapping of minors) contains the following provisions: article 368: "A person who by means of violence, threats or deception kidnaps a minor or causes a minor to be kidnapped shall be punished by a term of ordinary imprisonment of between one and five years and a fine of between 2,501 and 50,000 francs. The guilty party shall also suffer the prohibition contained in article 33 (Common penalties for crimes and offences)";

(c) Article 369: "If a minor kidnapped in this way is aged under 16 years at the time of the offence, the penalty shall be rigorous imprisonment";

(d) Article 369-1: "The penalty shall be hard labour for life, regardless of the age of the minor, if the minor is kidnapped for the purposes of ransom or the execution of an order or a condition. However, in the case described in the preceding paragraph, the penalty shall be a term of forced labour of between 15 and 20 years if the minor is voluntarily set free before the end of the fifth day following the day of his kidnapping without the ransom having been paid or the order or condition executed";

(e) Article 370: "A person who kidnaps or causes to be kidnapped a minor aged under 16 years who has consented to his kidnapping or has voluntarily accompanied the kidnapper shall be punished by a term of ordinary imprisonment of between six months and three years and a fine of between 2,501 and 20,000 francs".

(f) Article 371: "A kidnapper who marries a minor whom he has kidnapped or caused to be kidnapped and persons who have participated in the kidnapping may not be prosecuted until the marriage has finally been declared null and void. In such cases a new complaint is not necessary".

862. Only one case of the kidnapping of a minor has been brought before the courts in recent years. However, divorces and disputes over visiting rights often lead to the kidnapping of a child. Such situations are reported two or three times a year.

E. Racism (art.2)

863. The Grand Duchy has so far been sheltered from the serious social problems inherent in the suburban ghetto phenomenon with which big cities are increasingly confronted. This is due mainly to the fact that Luxembourg has no towns of any great size. Even Luxembourg City, the capital, has only 100,000 inhabitants. Thus no town has suburbs containing a concentration of socially disadvantaged households in the form of a ghetto. In addition, in Luxembourg, a country of immigration, the foreign population of almost 34 per cent of the total population comes almost exclusively from countries of the European Union, in particular Portugal, Italy, France and Belgium.

864. Since this immigrant population is very homogeneous with respect to culture, religion and language (speaking Romance languages) and since Luxembourg's current economic situation is quite favourable - low unemployment rate, high wages, guaranteed social protection and security - the country is not for the moment suffering the social tensions which often cause some manifestation of racism and it therefore does not have any racist movements.

865. The Luxembourg Legislature has approved the international conventions on this subject (see annex 1) and incorporated them in domestic legislation.

866. At the national level, attention must be drawn to articles 454 and 455 of the Criminal Code, which characterize as crimes certain acts of discrimination, incitement to such acts and to racial hatred or violence, and the membership of an organization whose objectives or activities amount to incitement to discrimination or racial hatred or violence. The Act of 27 July 1993 on the integration of foreigners in the Grand Duchy and the provision of social benefits to foreigners contains a chapter entitled "Measures to strengthen the prevention of all forms of racial, ethnic or religious discrimination". Draft legislation to supplement the Criminal Code by criminalizing racism, revisionism and other activities based on unlawful discrimination is currently making its way through the Legislature. In its opinion on this draft legislation the Council of State considers that "Luxembourg, whose resident population includes more than 30 per cent foreigners, not to mention more than 50,000 frontier workers, has experienced few racist incidents".

867. The fight against xenophobia and racism is a constant concern of the Government; for example, all the measures taken by the Commissariat for Foreigners of the Ministry of the Family are conceived as means of preventing all forms of discrimination, as was emphasized during the European Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance, which took place in 1995 under the auspices of the Council of Europe. These preventive measures will again be highlighted during the European Year Against Racism proclaimed by the Council of the European Union for 1997.

868. In May 1996 the Special Standing Committee Against Racial Discrimination was established under the National Council on Foreigners. The task of this new body is to prepare, either at the request of the Government or the National

Council on Foreigners or on its own initiative, opinions and proposals relating to action against all forms of racial discrimination and to devise projects and programmes, particularly with respect to the teaching of cultural and social subjects and the training of public officials, designed to enhance the mutual understanding among the various communities living in Luxembourg. At present this Committee is advising on the draft legislation described above.

F. Violence committed by children and young people

869. Are today's children and young people more violent than earlier generations? According to media reports on this issue, there is every ground for believing that this is the case, for example, in France, Germany, Belgium, etc. It must be said that in Luxembourg we do not have much information about such violence. But does that mean that the phenomenon does not exist?

870. There are certainly many factors having an influence on the increase in violence. For example, violence seems to be connected with the existence of big towns with suburbs inhabited by disadvantaged population groups, the presence of a large number of immigrants poorly integrated in society and of unemployed persons, etc. There are also some religions with fanatical adherents.

871. Owing to Luxembourg's small area these factors hardly obtain at all: no big towns with "hot" suburbs, the almost total dominance of a single religion, little unemployment, etc. Although one third of the population of the Grand Duchy are immigrants, their integration does not give rise to major problems. There are of course cases of acts of violence committed against immigrant children and adolescents by young people, but fortunately such cases have remained fairly rare.

872. How does violence by children and young people manifest itself?

(a) Fighting: the traditional fights after the Saturday night dance are a fact of life. They cannot be said to have increased in recent years;

(b) "Gratuitous" violence: there are increasing reports of acts of "gratuitous" violence, apparently committed for no reason at all: young people are attacked by other young people and sometimes seriously injured;

(c) Violence in the schools: although the tone of relations between pupils and teachers has changed, there are very few cases of physical attacks by pupils on teachers;

(d) Vandalism: this form of violence has always existed and has seen ups and downs. It is certainly commoner in the towns, where children have few possibilities of organizing their leisure time suitably;

(e) Gang violence: this phenomenon is fairly rare and unstructured among young children but increasingly common in post-primary schools and in gangs often displaying insignia of the extreme right;

(f) Blackmail: in contrast, there has been an increase in the number of cases of blackmail of children by other children from the primary level upwards. Small sums of money or "payments in kind" are often demanded on threat of violence;

(g) Self-destructive violence: the "tests of courage" as practised in the big towns (such as "surfing" on underground trains - leaping on to carriages at top speed on roller-blades) are fairly rare, but just recently a young person was killed when he tried to jump the rails at the last second before an approaching train;

(h) Suicide: there were four deaths by suicide in the under-15 age group in the period 1985-1989 (three boys and one girl). In 1990-1994 there were no suicides in this age group. There were 38 deaths by suicide (35 males and three females) in the 15-24 age group between 1990 and 1994. Compared with other countries of the European Union, Luxembourg's rates are below the averages compiled by the World Health Organization and the European Union, and the gaps are wider for men than for women;

(i) Violence and alcohol: it is indisputable that alcohol abuse has a direct influence on the use of violence. In many cases the acts of violence by young people are committed under the influence of alcohol;

(j) Weapons: the carrying and ownership of weapons are very strictly controlled in Luxembourg. This is perhaps the reason why armed attacks are virtually non-existent in the context of violence committed by children and young people.

873. For want of reliable data it is difficult to draw an accurate picture of the true dimensions of violence committed by children and young people. In view of the increase in the depiction of violence of all kinds in all the media, an increase of "copy-cat" violence seems inevitable. The psychological experiments carried out in this field are very conclusive. Just as we try to make access to pornographic material more difficult, the access of children and adolescents to media carrying depictions of violence should also be restricted. In this connection it is important to encourage international collaboration among States to limit the production and distribution of media products and toys focused on violence.

XII. INITIATIVES FOR CHILDREN IN THE FOREIGN POLICY OF THE GOVERNMENT OF LUXEMBOURG

Political activities to promote the rights of the child

874. In the summer of 1995 the Government launched a diplomatic initiative on the question of child labour. It first held consultations with senior officials of ILO and UNICEF. Then it conducted intense discussions with its European Union partners on this question. It was on the basis of this preparatory work that a draft resolution was produced for submission to interested partners and countries at the United Nations.

875. On 22 December 1995 the General Assembly of the United Nations adopted, on the proposal of the Third Committee, resolution 50/153 on the rights of the child, which contains a chapter on the elimination of exploitation of child labour. Thus, for the first time the General Assembly adopted a text referring specifically to the question of child labour. In the preamble of this resolution the international community expresses its concern that the exploitation of child

labour prevents a large number of children from an early age from receiving basic education and may unduly imperil their health and even their lives. The General Assembly stated its particular alarm over forced labour, bonded labour and other forms of slavery. The General Assembly encouraged Member States to ratify and apply the ILO conventions relating to the elimination of exploitation of child labour and requested Governments to take all necessary measures to eliminate all extreme forms of child labour. The resolution also proposes strengthening the cooperation among the various international organizations addressing the problem of child labour. And it requested the Secretary General of the United Nations to report on current initiatives and programmes and to make recommendations for improving cooperation at the national and international levels in this field.

876. At the fifty-second session of the Commission on Human Rights the Government of Luxembourg again made efforts to persuade the Commission to address the problem of exploitation of child labour and propose measures to combat it. Thus, the resolution on the rights of the child adopted by the Commission contains similar references to this question as the resolution adopted the previous year by the General Assembly.

877. In order to support these political moves the Government of Luxembourg decided to involve itself more concretely in the implementation of field projects by contributing to the funding of programmes launched by international organizations. It made a voluntary contribution of 350,000 Belgian francs to the ILO International Programme for the Elimination of Child Labour (IPEC) in order to support activities to eliminate child labour in the developing countries.

Assistance to children under development cooperation (1993-1995)

878. The distribution of Luxembourg's development aid shows the Government's wish to provide funding primarily for programmes and projects having a direct impact on the improvement of the living conditions of the peoples of the recipient countries. In 1994 48.31 per cent of programme and project finance went to the social sector, in particular infrastructure, health, education and water. This figure was as high as 86.21 per cent for the cofinancing of NGO projects. NGOs have an extremely valuable intervention capacity through their local partners in the recipient countries. Thus, Luxembourg's bilateral assistance and its assistance channelled through NGOs are of direct benefit to the poorest and most disadvantaged population groups, including children.

879. Luxembourg has very few governmental projects targeted specifically on children, apart from education projects (construction of infrastructure, for example) and the financing channelled through UNICEF. Some of these projects may also reach a wider population.

880. Luxembourg welcomes the increasing interest which NGOs are taking in the implementation of projects specifically for children. The priority sectors are education/training and medical and sanitation services.

881. It is true that children also benefit on an equal footing with adults from other projects implemented with Luxembourg aid (for example, primary health care projects). It is also true that the improvement of the economic and social situation of the developing countries with a view to sustainable development, a

task to which Luxembourg's cooperation is dedicated, also improves the prospects of future generations in these countries.

Estimate of Luxembourg's official development aid (ODA) for children

Year	Bilateral projects	Projects/ contributions to int. orgs.	Emergency aid	NGO projects	Total (millions of Luxembourg francs)	% ODA *
1993	39.83	11.73	11	32.03	94.59	6.13
1994	72.78	6.64	22.4	58.8	160.62	9.57
1995 (provisional)	74.76	13.5	16.47	65.6	170.33	n.a.
Total 1993-95	187.37	31.87	49.87	156.43	425.54	n.a.

* These figures show only the amount of Luxembourg's ODA. They do not therefore include the contributions of other donors (for example, two projects executed with international organizations) or the contributions which the NGOs themselves must make in order to receive official support.

882. The Government of Luxembourg has made development cooperation a priority of its international policy. For the past decade the funds allocated for this purpose have increased substantially. The Government is thus actively fulfilling its commitments undertaken at the United Nations Conference on Environment and Development in Rio de Janeiro in June 1992, which amount to achieving an ODA level equal to 0.7 per cent of GDP by the end of the decade. This cooperation will be strengthened and consolidated with respect both to the geographic and sectoral distribution of the aid and to implementation.

883. The social sectors will continue to receive particular attention under Luxembourg's development cooperation, which places human beings and their needs at the forefront of its concerns.